



Department of
Toxic Substances
Control

*Our mission is
to provide the
highest level of
safety, and to
protect public
health and the
environment
from toxic
harm.*



State of California



California
Environmental
Protection Agency

Fact Sheet, May 7, 2010

BKK Landfills Facility Second Consent Decree Available For Review

If you would like to request a copy of this fact sheet translated into Mandarin, Spanish, or Tagalog please contact Tim Chauvel at (714) 484-5487.

如您需要一份中文說明簡訊或有任何疑問，請電 714-484-5406 與黃則忠先生或 714-484-5485 與張寧武先生聯絡。

Kung nais ninyong makakuha ng kopya nitong "fact sheet" sa Tagalog o kung kayo ay may katanungan, paki-tawagan si Jose Marcos sa (714) 484-5492.

Si usted desea una copia de este aviso en espanol o tiene preguntas, por favor comuniquen con Jeanne Garcia (818) 717-6573.



BKK Landfills Facility

30-DAY PUBLIC COMMENT PERIOD May 7, 2010 through June 7, 2010

Your participation is encouraged. The proposed BKK Landfills Facility Second Consent Decree and other related project documents are available for public review and comment at the locations listed on page 3. The proposed Second Consent Decree (Second CD) has been lodged with the United States District Court for the Central District of California. After reviewing and considering all public comments, the Department of Toxic Substances Control (DTSC) will convey those comments, with DTSC's responses, to the District Court.

Please submit written comments, postmarked, e-mailed, or faxed by June 7, 2010, to:

Marilee Hanson, DTSC, Office of Legal Counsel, P.O. Box 806, Sacramento, CA 95812-0806. E-mail: mhanson@dtsc.ca.gov, FAX: 916-323-5542.

A public meeting has not been scheduled during the public comment period.



DTSC has entered into an agreement called the Second Consent Decree, which is the next step forward in DTSC's program to ensure continued maintenance of the closed BKK Class I (hazardous waste) landfill. The Class I landfill is part of the larger BKK Landfills Facility, located at 2210 South Azusa Avenue in West Covina (the Facility). The Facility includes the closed Class I landfill, a closed municipal waste Class III landfill, a leachate treatment plant (LTP) that serves both landfills, and associated equipment.

DTSC reached this agreement with the BKK Working Group (BWG), comprised of roughly 30 companies and one public agency that disposed of waste at the Class I landfill. A consent decree is an agreement reached by the parties and submitted to the court for approval. A court-approved consent decree is an order of the court.

The Second CD requires the BWG to continue maintaining the Class I landfill and LTP for at least the next three years and to perform some specific studies described in more detail below. Members of the public are encouraged to send their comments about the Second CD to DTSC, which will convey those comments, with DTSC's responses, to the District Court.

Background

The BKK Corporation (BKK), the owner and operator of the Facility, notified DTSC in October 2004 that BKK did not have sufficient funds to continue operating and maintaining the closed Class I landfill and LTP beyond mid-November 2004. DTSC began an emergency response action in November 2004 to ensure the continued day-to-day maintenance of the Class I landfill, LTP and associated equipment. BKK has continued to maintain the Class III landfill.

DTSC issued an order in December 2004 to 51 companies, including BKK, and public agencies called "potentially responsible parties" or "PRPs," who had disposed of hazardous waste at the Class I Landfill. The order directed the PRPs to maintain the Facility on a daily basis and conduct specific critical studies and tasks. Approximately 27 of these parties formed the BWG and negotiated with DTSC about maintenance and financial issues during 2005. The agreement was formalized in the first consent decree (First CD).

The Amended First Consent Decree

On October 31, 2005 DTSC and the BWG filed the First CD with the District Court. DTSC made the First CD available for public comment. DTSC responded to the public comments, slightly amended the First CD in response, and in March 2006 the Court approved the Amended First Consent Decree (Amended First CD). The initial term of the Amended First CD was two (2) years and it has been extended several times to give the parties time to negotiate the Second CD.

The Second Consent Decree

DTSC and the BWG negotiated the Second CD to build upon work accomplished in the Amended First CD and to come closer to a longer term solution. Both CDs are interim agreements that require the BWG to perform essential maintenance at the Class I landfill and to ensure public safety on a daily basis. The California Attorney General's Office, on behalf of DTSC, lodged the Second CD with the United States District Court, Central District of California, on or about May 5, 2010. If approved by the Court, the Second CD will require the BWG to continue essential maintenance activities and conduct a study of conditions at the Class I landfill. This study is called an Engineering Evaluation/Cost Analysis (EE/CA). The EE/CA will describe conditions at the site and will propose actions to rehabilitate or replace the major control systems at the Class I Landfill. The EE/CA will not address groundwater contamination related to the Class I Landfill. DTSC is addressing groundwater contamination on a separate track.

The BWG for the Second CD is similar to the group for the Amended First CD, except for the loss of two defendants and the addition of several new ones. DTSC will continue to oversee the BWG's work and DTSC's contractors may conduct other work at DTSC's direction.

The Second CD, the index for the administrative record and many documents in the administrative record may be viewed at <http://www.dtsc.ca.gov/HazardousWaste/Projects/BKK.cfm>

The Second CD and the administrative record may also be viewed at the information repositories listed on this fact sheet. DTSC will take public comments on the Second CD through June 7, 2010. After the public comment period ends, DTSC and the Attorney General's Office will review and develop responses to all comments received during the public comment period and submit them to the District Court. If the comments disclose facts or considerations that indicate the Second CD is inappropriate, improper or inadequate, DTSC may withhold its consent or modify the Second CD. The Court will make the final approval decision. If approved, the Second CD will become a legally binding order of the Court.

Comments

Comments on the Second CD must be in writing in order to be considered. All comments must be submitted on or before June 7, 2010. Any comments sent by fax should also be mailed. Any comments sent only by mail must be postmarked by June 7, 2010. Comments should refer to the BKK Landfills Facility Second CD and must be sent to the following individuals:

Marilee Hanson
Department of Toxic Substances Control
Office of Legal Counsel
P.O. Box 806
Sacramento, CA 95812-0806
E-mail: mhanson@dtsc.ca.gov
Fax: (916) 323-5542

With a copy to:

Jim Dragna
Bingham McCutchen
35 South Grand Avenue
Los Angeles, CA 90071-3106
E-mail: jim.dragna@bingham.com
Fax: (213) 830-8636

FOR MORE INFORMATION

If you have questions about the BKK Landfills Facility Second CD, please visit our website at: <http://www.dtsc.ca.gov/HazardousWaste/Projects/BKK.cfm>

Where to find documents locally

Documents for the BKK Landfills Facility Second CD are also available for review at the following

locations:

West Covina Public Library

Reference Desk
1601 West Covina Parkway
West Covina, CA 91790
Phone: (626) 962-3541

DTSC Cypress Office

5796 Corporate Avenue
Cypress, CA 90630
Phone: (714) 484-5337

Who to contact for further information

The following DTSC staff are available to answer your questions:

Marilee Hanson, Office of Legal Counsel
(916) 327-0979, mhanson@dtsc.ca.gov

Tim Chauvel, Public Participation Specialist
(714) 484-5487, or (toll free) (866) 495-5651,
choose option "4" and press 2,
tchauvel@dtsc.ca.gov

Jeanne Garcia, Public Information Officer
(Media inquiries only)
(818) 717-6573, jgarcia1@dtsc.ca.gov

Notice to Hearing-Impaired Individuals

You may obtain additional information about the site by using the California State Relay Service at 1 (888) 877-5379 (TDD). Ask to contact Marilee Hanson at (916) 327-0979 regarding the BKK Landfills Facility Second Consent Decree.

For more general information about DTSC:

Visit our website at www.dtsc.ca.gov