



Department of Toxic Substances Control

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March 27, 2009

Mr. Greg Haet
Associate Director, Environmental Protection
Environment, Health and Safety
University of California
317 University Hall #1150
Berkeley, California 94720-1150

Dear Mr. Haet:

The California Environmental Protection Agency, Department of Toxic Substances Control (DTSC), has completed its review of your submittals dated June 30, 2005, November 4 and 28, 2005, January 13, 2006, February 8, 2006, August 2 and November 20, 2006, in response to our requests for information, records and documents related to the Phase 1, 2 and 3 activities for subunits 2A and 2B, Meade Street Operable Unit, University of California, Richmond Field Station (UCRFS). These submittals were prepared by 4 Leaf, Inc., for the University of California, Berkeley (UCB). In addition to the above submittals, DTSC reviewed the Phase 1, 2 and 3, Implementation Reports and other relevant documents, such as the Remedial Design Details and Addendums.

The enclosed report describes our findings, including all violations and any actions that should be taken by the facility to correct the violations.

Violations 1 through 5 were included in the Summary of Violations (SOV) issued to UCB on June 29, 2007. Upon further consideration of the facts and circumstances surrounding violations 3.a., 3.b., 3.c, 3.d. and 3.e., DTSC will not be pursuing these violations.

Violations 6 and 7 which are described in detail in the inspection report were found subsequent to the issuance of the SOV are shown below.

6. Failure to Make a Hazardous Waste Determination

UCRFS violated California Code of Regulations, title 22, section 66262.11 in that UCRFS failed to conduct the required hazardous waste determination on the following treated wastes prior to shipment and placement in Subunit 1, Zeneca site, to wit:

- a. On or before November 15 and 16, and November 25 and 26, 2002, 122 truckloads of treated excavated cinders and sediment were not analyzed for total and/or soluble zinc, and for soluble mercury. Analyses conducted on the treated wastes were for total mercury and dissolved leachate concentrations.
- b. On or before October 11, October 18, 23, 25, and from October 28-31, 2002, 908 truckloads of treated soft marsh cinders and sediment were not analyzed for total and/or soluble mercury, arsenic, copper, zinc and lead. The only analysis conducted for the treated waste was for pH level.
- c. On or before September 11, 16, October 2, 21, 22 and 25, 2003, 681 truckloads of treated Type A materials were not analyzed for total and/or soluble mercury, arsenic, cadmium, copper and zinc. The only analysis conducted on the treated wastes was for pH levels.
- d. On or before September 8 through 10, 2003, 109 truckloads of treated UCB Type A materials were not analyzed for total and/or soluble mercury. The only analysis conducted on the treated wastes was for pH levels.
- e. On or before September 23 through October 25, 2003, 1,115 truckloads of treated Type B materials were not analyzed for total and/or soluble mercury, arsenic, copper, selenium, and zinc, and for soluble mercury. Analyses conducted on the treated wastes were for total mercury and dissolved leachate concentrations

Corrective Action

UCRFS shall coordinate with the DTSC Northern California Cleanup Operations Coastal Branch, to determine the appropriate sampling and analysis methods required for the removal and/or restoration actions for the Subunit 1 areas at Zeneca.

7. Shipment of Hazardous Waste to an Unpermitted Facility

- a. UCRFS violated HSC section 25189.2 (b) in that UCRFS shipped hazardous wastes to a facility not permitted or authorized to receive hazardous waste, which is a violation of HSC Section 25189.5(c), to wit:

On or about September 18 through November 4, 2002, UCRFS shipped to Zeneca for treatment and placement into Subunit 1, approximately 12,140 cubic yards of excavated cinders and sediment from Areas 1 and 4, containing mercury at a concentration of 32 mg/kg (described by UC as less than 50 mg/kg mercury), copper from 7,800 mg/kg to 20,000 mg/kg and zinc from 7,100 to 22,000 mg/kg. The TTLCs for mercury, copper and zinc are 20 mg/kg, 2,500 mg/kg and 5,000 mg/kg respectively.

- b. On or about November 15, 16, 25 and 26, 2002, UCRFS shipped to Zeneca for further treatment, 122 truckloads (1,700 cubic yards before treatment) of powder activated carbon treated excavated cinders and sediment containing mercury concentrations at 24 mg/kg and 28 mg/kg. The TTLC for mercury is 20 mg/kg.

Corrective Action

Although no further action is required regarding this violation, in the future, UCRFS must ensure that hazardous wastes shall only be shipped to a permitted or otherwise authorized hazardous waste, treatment, storage, and/or disposal facility.

You are required by section 25185 (c)(3) of the Health and Safety Code to submit a written response to DTSC within 30 days describing the corrective actions that you have taken or propose to take to bring your facility into compliance. If you dispute any of the violations, you should explain your disagreement in this written response. The issuance of this letter does not preclude DTSC from taking administrative, civil, or criminal action as a result of the violations noted in the report.

All pertinent information received from UCB's submittals dated June 30, 2005, November 4 and 28, 2005, January 13, 2006, February 8, 2006, August 2, 2006 (except "Privileged and Confidential Copy of the Allocation and Settlement Agreement between UC Berkeley and Zeneca") and November 20, 2006, are included as attachments to the report. In order to reduce copying and mailing costs, these have not been returned to you with the report; copies will be provided if you request them. This report will become a public document; you may request that any trade secret or facility security information be withheld from public disclosure. (See Health and Safety Code Section 25173 attached).

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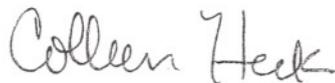
If you wish to assert the trade secret privilege after you have reviewed the report, please provide specific answers to each of the following questions, for each item, within 10 days of receipt of this letter:

1. To what extent is there knowledge of the information conveyed by the photograph/document outside your business?
2. To what extent is there knowledge of the information conveyed by the photograph/document, by employees and others in your business?
3. To what extent have measures been taken to guard the secrecy of the information?
4. Is the information valuable to competitors? If so, why?
5. Has there been substantial monetary expenditure in the development of the information?
6. Could the information be easily and properly acquired or duplicated by others?

DTSC will review this information to determine if the information should be treated as trade secrets and notify you accordingly.

If you have any questions regarding this letter, or if you wish to meet with DTSC to discuss any questions or concerns you have with the investigation, the report, the violations, or the proposed corrective actions, please call Ms. Colleen Heck at (916) 324-5780.

Sincerely,



Colleen Heck
Senior Staff Counsel
Office of Legal Counsel

Enclosure

cc: Ms. Luz Castillo
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