

H  
CABLE HUSTON<sub>LLP</sub>

James S. Kincaid

jkincaid@cablehuston.com

March 13, 2020

BY E-MAIL (ken.niles@oregon.gov) AND REGULAR MAIL

Mr. Ken Niles  
Assistant Director for Nuclear Safety  
Oregon Department of Energy  
550 Capitol Street NE  
Salem OR 97301

Re: Chemical Waste Management of the Northwest, Inc.  
Notice of Violation OAR 345-050-0006, dated February 13, 2020  
Response to Notice of Violation and Request for Extension of Time

Dear Mr. Niles:

I represent Chemical Waste Management of the Northwest, Inc. (CWM) with regard to the above-referenced Notice of Violation (Notice) which the Oregon Department of Energy (the Department) issued to CWM on February 13, 2020. In the Notice, the Department alleges that CWM accepted for disposal solid wastes that potentially qualify as Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) subject to the prohibition in ORS 469.525 and OAR Chapter 345, Division 50.

In Section V of the Notice, the Department directs that CWM provide a written response to the Notice within thirty (30) days from receipt of the Notice. The Department states that pursuant to OAR 345-029-0040, the response must include either an admission or denial of the violation. In Section V, the Department further requests that CWM "complete a comprehensive compliance process," which is to include the submission of a "Draft Risk Assessment and Corrective Action Plan."

***CWM Response to the Notice***

Pursuant to OAR 345-029-0040, CWM denies the allegations in the Notice that CWM accepted wastes that was subject to the disposal prohibition in ORS 469.525 and OAR 345-050-0006. Notwithstanding this denial, and with a full reservation of its right to challenge the Notice (and its allegations), CWM agrees to complete a Risk Assessment and Corrective Action Plan (RA/CAP) for Department review as referenced in Section V of the Notice.

***Request for Extension of Time to Provide the Draft Risk Assessment and Corrective Action Plan***

In Section V of the Notice, the Department requests that CWM provide a draft RA/CAP within thirty (30) days after receipt of the Notice. The Department further requests that the CAP

follow all guidance of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) process.

With respect to the development of the RA/CAP, CWM intends to follow the Oregon and federal guidance relating to risk assessments and feasibility studies tailored to the specific circumstances of this matter and these wastes. We understand that the Department is familiar with similar plans developed for a similar matter at the Blue Ridge Landfill, in Kentucky. CWM intends to develop its RA/CAP to be consistent with those developed at this other site.

The RA is an integral part of the determinations made in the action plan and is expected to be delivered as an Appendix to the CAP. CWM has retained several expert consulting firms which have begun working on developing these documents. CWM believes these consultants to be some of the best in the nation and all have experience developing risk assessments and action plans in other states for similar situations.

As Jim Denson with CWM discussed with you and other Department technical staff on March 12, 2020, thirty (30) days is an insufficient timeframe in which to complete this rigorous process. During the call, CWM agreed to have regular technical meeting and project updates throughout the process with the Department. The intent for the regular technical meetings is to inform the Department of CWM's progress and to have a preliminary layperson summary in the next 60 days and a final RA/CAP document ready by September 1, 2020. CWM respectfully requests that the Department extend the "deadline" for providing this work product to September 1, 2020.

Thank you for your consideration of this request for extension.

Very truly yours,



James S. Kincaid

cc via email: Patrick Rowe  
Jim Denson  
Andrew Kenefick