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AN ENVIRONMENTAL AND ENERGY LAW PRACTICE

April 8, 2009

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VIA OVERNIGHT MAIL

John Hanger
Secretary
Commonwealth of Pennsylvania
Department of Environmental Protection
16th Floor
Rachel Carson State Office Building
P.O. Box 2063
Harrisburg, PA 17105-2063

Re: Rulemaking Petition to Amend Existing Exclusion of
Listed Hazardous Waste for Wastewater Treatment
Sludge Filter Cake

Dear Secretary Hanger:

In December, 2008, our client, Waste Management Disposal Services of Pennsylvania, Inc. ("WMDSPA"), the successor by merger to Geological Reclamation Operations and Waste Systems, Inc. ("GROWS"), submitted a rulemaking petition (the "Petition") to amend the existing exclusion, or delisting, from the lists of hazardous wastes in 40 C.F.R. Part 261, incorporated by reference under 25 Pa. Code §261a, for waste water treatment sludge filter cake produced by the treatment of hazardous waste leachate (EPA Hazardous Waste No. F039) at WMDSPA's Morrisville, Pennsylvania wastewater treatment facility. The purpose of the Petition was to increase the volume of filtercake covered by the delisting because of increased rates of filtercake production at WMDSPA's treatment facility (the "Plant").

Since the submission of the Petition, representatives of WMDSPA have had the opportunity to meet and discuss the Petition with representatives of the Department to answer certain questions raised by the Department in the course of reviewing the Petition. As a result of those discussions, WMDSPA collected additional information concerning the reason for the increase in the volume of filtercake production at the Plant



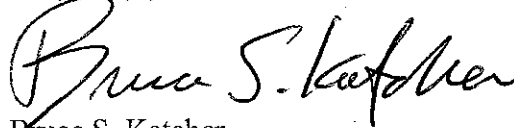
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and would like to supplement limited portions of the Petition to reflect this information, as summarized below, and to clarify the volume of leachate being treated at the Plant.

As set forth in the Petition, the increase in filter cake production was attributed to a recent increase in the volume of leachate being treated at the Plant. Upon further investigation in response to questions posed by the Department, WMDSPA has determined that the increase in filter cake is also partially attributable to increases in the concentration of certain constituents in the raw untreated leachate. Accordingly, together with the recent increase in the volume of leachate being treated, the plant is treating a more concentrated leachate, which is also a cause of the recent increase in filter cake production which prompted the need to increase the delisted volume of filter cake and the corresponding submission of the Petition.

Pursuant to a conversation I had last week with counsel for the Department, Kurt Klapkowski, we are submitting, along with this letter, Exhibits A through C containing supplemental wording for the affected portions of the Petition to reflect the above. Please do not hesitate to contact me if you or anyone at the Department has any questions about the Petition or the supplemental information contained in this letter.

Very truly yours,



Bruce S. Katcher

For MANKO, GOLD, KATCHER & FOX, LLP

BSK/dm/10017.00027

Enclosures

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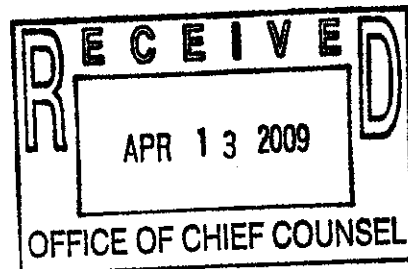


Exhibit A

Please replace Paragraph B of the "Petition Form" with the following:

Waste Management Disposal Services of Pennsylvania, Inc. ("WMDSPA", formerly known as Geological Reclamation Operations and Waste Systems, Inc. ("GROWS")), is requesting an amendment to the existing exclusion from the list of hazardous wastes in 40 C.F.R. Part 261, incorporated by reference under 25 Pa. Code §261a, for wastewater treatment sludge filter cake generated from WMDSPA's treatment of hazardous waste leachate (EPA Hazardous Waste F039) at its wastewater treatment facility located in Morrisville, Pennsylvania. WMDSPA's existing exclusion, contained in Appendix IX of 40 C.F.R. Part 261, allows up to an annual volume of 2000 cubic yards of filter cake to be disposed of in a Subtitle D landfill. The filter cake results from the treatment of a multi-source hazardous waste leachate generated at a closed portion of WMDSPA's Morrisville landfill, known as "Old GROWS", and non-hazardous leachate from non-hazardous waste sources. Recently, the volume of leachate treated at the Morrisville plant has increased and, together with increased concentrations of certain leachate constituents, has led to a corresponding increase in the volume of filter cake which will cause WMDSPA to exceed the 2000 cubic yard annual limit. Accordingly, as set forth in the attached petition, WMDSPA is requesting an amendment to increase the annual volume limit in its existing exclusion from 2000 cubic yards to 4000 cubic yards. The increased volume of filter cake does not pose a threat to human health or the environment as demonstrated by the historic verification testing data for the filter cake and the attached results of risk modeling performed using the U.S. EPA's Delisting Risk Assessment System software. The petition also includes additional information about the WMDSPA facility, the filter cake, and the sampling process used to generate the attached data. Ultimately, the petition demonstrates that amending the existing exclusion for the filter cake to increase the volume is appropriate pursuant to 25 Pa. Code §260a.20.

Exhibit B

In the narrative that was attached to the Petition, please also replace the first two paragraphs of the section of titled "Request to Increase Delisting Volume" with the following:

WMDSPA currently treats a mixture of hazardous and non-hazardous leachate amounting to approximately 80,000 gallons per day. The treatment process has not changed materially since the original delisting. Recently the volume of leachate treated by WMDSPA at the treatment plant has increased and, together with increased concentrations of certain leachate constituents, has led to a corresponding increase in the volume of filter cake generated at the plant which will cause WMDSPA to exceed the 2,000 cubic yard annual limit. The filter cake generated by the treatment process is collected in 20 cubic yard containers, and WMDSPA fills a container approximately every one to two days. WMDSPA performs verification testing on a composite sample of each four weeks of containers in accordance with the conditions of its existing delisting. Every composite sample collected since the initial delisting in 1991 has satisfied the verification testing procedure and, until WMPSDA exceeded the annual 2,000 cubic yard volume limitation on November 5, 2008, all filter cake was disposed of as non-hazardous waste in a PADEP-permitted RCRA Subtitle D landfill.

Pursuant to a Consent Order and Agreement that WMDSPA entered into with the Department in 2006, WMDSPA plans to construct a new wastewater treatment plant. The new treatment plant will expand WMDSPA's leachate treatment capacity, facilitate the separate treatment of the hazardous waste leachate generated from Old GROWS and thereby reduce the volume of F039 leachate attributable to the mixing in the wastewater treatment plant of the hazardous waste leachate from Old GROWS Landfill with the much greater volume of non-hazardous waste leachate from other sources. Until the new treatment plant begins to operate, however, WMDSPA will continue to generate additional quantities of filter cake and is requesting an increase to the annual volume limit established in its delisting from 2,000 cubic yards to 4,000 cubic yards to accommodate disposal of the increased volume of filter cake. Because the Commonwealth has now been authorized by EPA pursuant to RCRA to administer the Pennsylvania hazardous waste regulations, including any delisting of hazardous waste, this petition to amend the delisting is being submitted to the Environmental Quality Board.

Exhibit C

Finally, Appendix F of the Petition contained suggested regulatory language, and the fourth paragraph of Section D thereof, titled "Background and Purpose," should be replaced with the following:

Recently the volume of leachate treated by WMDSPA at the treatment plant has increased coincident with increased concentrations of certain leachate constituents. Accordingly, WMDSPA is generating substantially more filter cake and, to accommodate the disposal of this increased volume as a non-hazardous waste, it is requesting an increase in the volume limit established in its delisting to 4,000 cubic yards annually.