



California Regional Water Quality Control Board Central Valley Region

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18 November 2009

NOTICE OF VIOLATION

Neil Morrissey, Project Manager
Kiewit Power Constructors Co.
10704 Shoemaker Avenue
Santa Fe Springs, CA 90670

Don Burkard, Operations Manager
Panoche Energy Center, LLC
43883 W. Panoche Road
Firebaugh, CA 93622

UNAUTHORIZED DISCHARGE TO STORM WATER POND, PANOCHÉ ENERGY CENTER POWER PLANT (WDID 5B10NC00028, RM 371949), FRESNO COUNTY

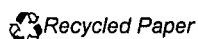
On 12 June 2009, Mr. Tom Berliner notified this office that employees of Kiewit Power Constructors Co. (Kiewit) discharged wastewater to a storm water pond at the Panoche Energy Center, LLC (Panoche) Power Plant near the City of Firebaugh. Mr. Berliner is an Attorney with Duane Morris, LLP, and represents Kiewit. The wastewater was generated from the operation of a water treatment system featuring an ultrafiltration unit and reverse osmosis filter, and exhibited elevated concentrations of salinity waste constituents. On 17 June 2009, he submitted additional information regarding the discharge, which he characterized as follows: Kiewit employees discharged about 800,000 gallons of wastewater to the storm water pond during Power Plant startup operations from December 2008 through April 2009.

The discharge wastewater to the storm water pond at Panoche Power Plant constitutes a violation of California Water Code (CWC) Section 13264(a). Pursuant to CWC Section 13265(a) and (b)(1), parties responsible for this discharge may be subject to up to \$1,000 administrative civil liability for each day in which this violation occurs after receiving this Notice of Violation.

We understand that Panoche's Power Plant operates intermittently during peak demand periods. Panoche has added additional tanks at its Power Plant to increase its wastewater storage capacity and constructed four injection wells to dispose of the wastewater from the Power Plant's water treatment system. Panoche is also in discussions with Regional Water Board permitting staff regarding its proposal to construct a wastewater storage pond.

By 18 August 2009 e-mail, Hoss Aghazeynali of my staff requested Mr. Berliner to provide additional information on the unauthorized discharge to the storm water pond and any measures taken or planned to cleanup and abate the discharge. On 14 September 2009, Environ International Corporation submitted a sediment and soil sampling work plan (Work Plan) on behalf of Kiewit. The Work Plan proposes to collect four soil samples from the upper two to three inches of undisturbed sediments in the bottom of the storm water pond, and an additional four samples at similar depths to the east of the pond where the soil has not been disturbed from the construction activities and is unaffected by the discharge. The Work Plan proposes to analyze the soil samples for California Assessment Manual metals (CAM 17), sodium, pH, specific conductance, organochlorine pesticides, and polychlorinated biphenyls.

California Environmental Protection Agency



The Work Plan's sampling locations and proposed monitored constituents appear adequate; however, soil samples should also be collected at deeper depths (e.g., 8 to 12 inches) in the sampled locations for analysis of the proposed waste constituents to assess the extent to which, if any, the discharged waste constituents have leached into the soil profile and pose a threat to underlying groundwater.

We will expect the proposed soil sampling work be initiated forthwith and completed by **15 December 2009**. By **12 February 2010**, submit a technical report that describes:

1. The results of the soil sampling work;
2. Any additional corrective measures taken or planned to cleanup and abate the soils affected by the unauthorized discharge; and
3. Measures planned and implemented to preclude the discharge of non-storm water waste to the Power Plant's storm water pond.

If you have any questions regarding this matter or are unable to meet the deadline specified above, please contact Hoss Aghazeynali at (559) 445-6194 to explain your situation.


Jo Anne Kipps
Senior Engineer
RCE No. 49278

cc: California Energy Regulatory Commission, 1516 Ninth Street, MS-29, Sacramento, CA 95814
Fresno County Environmental Health Department, Fresno
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San Francisco, CA 94105
Cynthia Dahl, Environ International Corporation, San Marin Drive, Suite 2115, Novato, CA 94998