



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

JUL 18 2012

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG.11
2012 JUL 24 A 8:07
REGIONAL HEARING
CLERK

CERTIFIED MAIL-RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5951 6591

Adam Wollmer
TNP Trucking, Inc.
129-16 14th Avenue
College Point, NY 11356

RE: In The Matter Of: TNP Trucking, Inc.
Docket Number: SDWA-02-2012-8901

Dear Mr. Wollmer:

Enclosed is a Complaint issued to TNP Trucking, Inc. ("Respondent") by the U.S. Environmental Protection Agency ("EPA"). The EPA has determined that Respondent violated Part C of the Safe Drinking Water Act ("Act") and the regulations promulgated thereunder, relating to underground injection. Respondent failed to comply with 40 Code of Federal Regulations ("C.F.R.") §144.88(b)(1)(vi) by failing to close or obtain a permit for its motor vehicle waste disposal wells by no later than January 1, 2008. Therefore, pursuant to §1423(c) of the Act, 42 United States Code ("U.S.C.") §300h-2(c), EPA seeks (1) to assess a penalty in the amount of **\$8,800.00** against Respondent for these violations, and, (2) to require Respondent to take certain actions to achieve compliance with the Act.

Respondent has the right to a hearing to contest the factual allegations in the Complaint. If the allegations are admitted, or they are found to be true after an opportunity for a hearing on them, Respondent has the right to contest the penalty and the compliance measures proposed in the Complaint. I have enclosed a copy of the Proposed Consolidated Rules of Practice ("CROP") (40 C.F.R. Part 22) which EPA follows in cases of this kind. Please take particular note of 40 C.F.R. §22.15 with regard to filing an Answer in this matter. Also note 40 C.F.R. Part 22 Subpart I. **If Respondent wishes to contest the allegations in the Complaint or the penalty proposed or the proposed compliance measures detailed in the Complaint, an Answer must be filed within thirty (30) days of your receipt of the enclosed Complaint. The Answer must be mailed to the EPA Regional Hearing Clerk at the following address:**

Regional Hearing Clerk
U.S. EPA, Region 2
290 Broadway, 16th Floor
New York, NY 10007-1866

If Respondent does not file an Answer within thirty (30) days of receipt of this Complaint, you may be judged to have defaulted. In the event of default, each allegation in the Complaint will

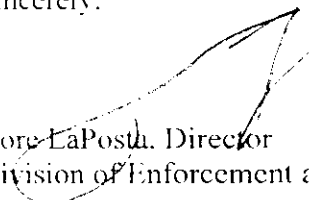
be deemed to be admitted. Respondent will have waived your right to appear in this action and the entire proposed penalty and all proposed compliance measures may be ordered without further proceedings.

Whether or not a hearing is requested, Respondent may confer informally with the EPA concerning the alleged violations, the amount of the proposed penalty and/or the compliance measures. The EPA encourages all parties against whom it files a Complaint to pursue settlement discussions. The EPA also encourages the use of Supplemental Environmental Projects, where appropriate, as part of the settlement. Enclosed is a copy of the EPA Supplemental Environmental Project Policy (May 1, 1998) for your consideration. Respondent may represent yourself or be represented by an attorney at any stage of the proceedings, including any informal discussions, whether in person or by telephone. Please note that a request for an informal conference does not substitute for a written Answer or effect what may be asserted in an Answer, nor does it extend the thirty (30) days by which to file an Answer or a Hearing Request. Any hearing held in this matter will be conducted in accordance with the CROP.

If you have any questions or wish to discuss settlement of this matter with the EPA by an informal conference, please immediately contact:

Diane Gomes, Esq.
Assistant Regional Counsel
Water & General Law Branch
Office of Regional Counsel
U.S. EPA, Region 2
290 Broadway - 16th Floor
New York, New York 10007
(212) 637-3235

Sincerely,



Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

1. CROP
2. SEP Policy
3. U.S. EPA Small Business Resource Information Sheet
4. Notice of Security and Exchange Commission Registrant's Duty to Disclose Environmental Legal Proceedings

cc: Karen Maples, Regional Hearing Clerk
(w/Complaint only)

Mark Klotz, Director, Division of Water New York State
Department of Environmental Conservation

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2

290 Broadway
New York, NY 10007-1866

U.S. ENVIRONMENTAL
PROTECTION AGENCY-REG. II
2012 JUL 24 A 8:07
REGIONAL HEARING
CLERK

IN THE MATTER OF:

TNP Trucking, Inc.
129-16 14th Avenue
College Point, NY 11356

Respondent

Proceedings under Section 1423(c)
of the Safe Drinking Water Act
42 U.S.C. §300h-2(c)

COMPLAINT,
NOTICE OF VIOLATION,
PROPOSED ADMINISTRATIVE ORDER
WITH CIVIL PENALTY AND
OPPORTUNITY TO REQUEST A
HEARING

DOCKET NO.
SDWA-02-2012-8901

COMPLAINT AND NOTICE OF VIOLATION

I. Statutory and Regulatory Authorities

1. This Complaint, Notice of Violation, Proposed Administrative Order with Civil Penalty and Opportunity to Request a Hearing, is hereinafter referred to as "Complaint" and is issued under the authority vested in the Administrator of the Environmental Protection Agency ("EPA") by Section 1423(c) of the Safe Drinking Water Act ("Act"), 42 United States Code ("U.S.C.") §300h-2(c). The Administrator has delegated the authority to take these actions to the Regional Administrator for Region 2, who in turn delegated them to the Director, Division of Enforcement and Compliance Assistance of EPA, Region 2 ("Complainant").
2. Pursuant to Section 1423(c) of the Act, 42 U.S.C. §300h-2(c), and in accordance with the Consolidated Rules of Practice ("CROP") 40 C.F.R. Part 22, Complainant hereby requests that the Regional Administrator assess a civil penalty against Respondent for violations of the Act and the regulations promulgated thereunder and require Respondent to take certain actions to achieve compliance with the Act and the regulations promulgated thereunder.
3. Section 1422 of the Act, 42 U.S.C. §300h-1, requires EPA to administer the Underground Injection Control ("UIC") Program in states that do not have approved state programs. New York is a "state" within the meaning of Section 1401(13) of the Act, 42 U.S.C. §300f (13) and 40 C.F.R. §144.3. New York has not acquired primacy over the UIC program. Pursuant to 40 C.F.R. §147.1651, EPA Region 2 began implementation of the UIC program for New York for all injection activities, except those on lands of the Seneca Indian Tribe, on June 25, 1984.

4. Section 1401(12) of the Act, 42 U.S.C. §300f (12), and 40 C.F.R. §144.3 define “person” as, among other things, an individual, corporation, company, association, partnership or municipality.
5. 40 C.F.R. §144.11(a) prohibits any underground injection, except as authorized by rule or permit under the UIC program.
6. Class V underground injection wells are regulated by EPA and, pursuant to 40 C.F.R. §144.24, Class V injection wells (as defined by 40 C.F.R. §144.80 and described in §144.81), with certain exceptions, are authorized to operate, provided the owner and/or operator is in compliance with 40 C.F.R. Part 144.
7. Pursuant to 40 C.F.R. §144.81(16), Motor Vehicle Waste Disposal Wells (“MVWDWs”) are classified as Class V injection wells.
8. Pursuant to 40 C.F.R. §144.84(b), certain Class V wells, including new MVWDWs, were no longer authorized by rule and prohibited as of April 5, 2000. In addition, pursuant to 40 C.F.R. §144.84(b)(2), existing MVWDWs were required to be closed or to have been permitted for continued use.
9. Pursuant to 40 C.F.R. §144.87(f), where a State elects not to delineate “Other Sensitive Ground Water Areas”, the additional requirements specified at 40 C.F.R. §144.88 (b)(1)(vi) apply statewide. The State of New York elected not to delineate “Other Sensitive Ground Water Areas”. Therefore, pursuant to 40 C.F.R. §144.88 (b)(1)(vi), all existing MVWDWs within the State of New York were required to be closed or permitted by no later than January 1, 2008.
10. Section 1445 of the Act, 42 U.S.C. §300j-4, authorizes EPA to conduct inspections to determine whether the owner or operator of an injection well has acted or is acting in compliance with the UIC program.

II. Jurisdictional Findings

1. TNP Trucking, Inc., (“Respondent”) is a person within the meaning of Section 1401(12) of the Act, 42 U.S.C. §300f (12) and 40 C.F.R. §144.3.
2. Respondent owns and/or operates the facility located at 129-16 14th Avenue, College Point, NY 11356 (“facility”), which is used for general vehicle servicing, maintenance and repair activities.
3. Respondent owns and operates two injection wells (“DW-1” and “DW-2”) at the facility. The injection wells at the facility are Class V injection wells as defined at 40 C.F.R. §144.80(e) and MVWDWs as defined at 40 C.F.R. §144.81(16). In addition, DW-2 is used to drain surface

fluids, primarily storm water runoff, in an industrial area susceptible to spills, leaks, or other chemical discharges into a subsurface formation as defined at 40 C.F.R. §144.81.

4. Based on the above, Respondent is subject to the requirements of Part C of the Act, 42 U.S.C. §§ 300h through 300h-8 and implementing regulations found at 40 C.F.R. Parts 124, 144, 146 and 147, Subpart III.

III. Findings of Violation

1. Complainant re-alleges Paragraphs 1-4, Section II above.
2. On July 7, 2011, EPA conducted an inspection of Respondent's facility, located at 129-16 14th Avenue, College Point, NY.
3. Based on observations and information provided by TNP Trucking, Inc., employees, the inspection revealed that:
 - a. Truck servicing, maintenance and repair activities are performed on-site, in the service bay area.
 - b. Servicing, maintenance and repair activities are also performed in the outside of the service bay area (parking lot).
 - c. One service area floor drain ("FD-1"), covered with a metal lid with two holes, located in the service bay area, such that fluids generated from vehicle service and repair activities could enter the drain. FD-1 discharges into a drywell ("DW-1") located in the service bay area. No fluid was observed inside DW-1, but the drywell walls appeared to be stained.
 - d. A second drywell ("DW-2") is located outside the maintenance building. This drywell is covered with a metal lid with two holes in the center. The pavement in the vicinity of DW-2 was stained, and liquids with a sheen appearance were observed in the drywell. DW-2 is connected to DW-1 through an overflow pipe.
 - e. An L-shaped trench drain is located directly outside the main door of the maintenance garage, in the asphalt truck parking area. At the time of inspection, this trench drain was receiving tire washwater.
 - f. A rectangular trench drain located along the west side of the property; this trench drain is connected to an Oil/Water Separator ("OWS") and DW-2. The OWS discharges to FD-1.
 - g. Oil spills were observed in the vicinity of the trench drains and the asphalt on the property was stained and showed evidence of oil drops/spills. In addition, trucks were parked directly over the rectangular drain, where they received maintenance.
4. Based on a report dated April 22, 2010 and prepared by Respondent's contractor, CA Rich Consultants, Inc., both trench drains receive stormwater and discharge to DW-2.

5. Based on the inspection observations and the information provided by Respondent's contractor, DW-1 and DW-2 are MVWDWs, subject to the requirements of 40 C.F. R. §§144.87 and 144.88.
6. In addition to the discharge from the overflow pipe referenced in paragraph 6, above, DW-2 is an industrial drainage well as it receives stormwater run-off from the paved area which is prone to spills and leaks of industrial contaminants.
7. On March 22, 2012, EPA conducted a follow up inspection at Respondent's facility and confirmed that Respondent had not ceased injection. In addition, the EPA inspection revealed the following, based on observations as well as information provided by on-site staff:
 - a. Truck servicing, maintenance and repair activities are still performed on-site.
 - b. Oil spills were observed in the vicinity of the trench drains and the asphalt.
 - c. No fluid was observed inside DW-1, but drywell walls appeared stained.
 - d. The area surrounding DW-2 was stained, and the injection well was approximately one third (1/3) full of liquids.
 - e. Employees confirmed the oil presence in DW-2. There were three employees present when DW-2 was opened, while one employee stayed inside the shop.
 - f. Mr. Dominic Caruso, Co-owner, confirmed that the coolant spilled on the asphalt (parking lot) was originating from a trailer parked right outside of the shop for repairs. Mr. Caruso explained that they were changing the trailer hydraulic pump; a regular procedure that they perform in the area near DW-2. Once they finish with vehicle maintenance in this area, the area is cleaned. Mr. Caruso did not specify how they clean it.
 - g. There was a hose on the asphalt coming from the fuel-oil truck and oily fluid coming from the forklift truck in direction to the DW-2.
8. Respondent did not apply for or obtain a permit for continued injection.
9. Therefore, based upon the Findings above, Respondent is in violation of Part C of the Act, 42 U.S.C. §§ 300h through 300h-8 and 40 C.F.R. §144.88(b)(1)(vi) by failing to close or obtain a permit for its MVWDWs by no later than January 1, 2008.

IV. Proposed Administrative Order

1. **Penalty:** EPA proposes to issue a Final Administrative Order ("Final Order"). The Final Order will be based on the foregoing Findings of Violation and pursuant to the authority of Section 1423(c) of the Act, 42 U.S.C. §300h-2(c), and the Debt Collection Improvement Act of 1996. EPA, Region 2, hereby proposes to issue a Final Administrative Order against the Respondent, assessing a penalty of **\$8,800.00**. EPA determined the proposed penalty in accordance with the terms of the Act, which takes into account statutory factors, including the

seriousness of the violation(s); the economic benefit (if any) resulting from the violation(s); the history of such violation(s); the good-faith efforts to comply with the applicable requirements; the economic impact of the penalty on the violator; and such other matters as justice may require.

2. **Compliance Measures:** In addition to paying a penalty, Respondent shall be ordered to:

- a. **Cease Injection:** As of the effective date of this Order, Respondent shall discontinue the use of the drain disposal system as currently utilized.
- b. **Remediation Plan Submittal:** Within 30 days of the effective date of this Order, Respondent shall submit a Remediation Plan ("Plan"), developed in accordance with well remediation requirements incorporated into this Order as Attachment 1, detailing how the injection wells subject to this Order will be properly remediated and, if applicable, permanently closed. Please note that continued use of the injection wells subject to this Order, for any purpose, after remediation is completed must be approved by EPA pursuant to Paragraph 2c below. **EPA will review the Plan and approve or provide comments within 30 days after receipt of the Plan from Respondent.**
- c. **Well Remediation:** Within 180 days of the effective date of the Final Order, Respondent shall complete the remediation of the injection wells in accordance with the EPA approved Plan.
- d. **Well Remediation/Closure Report:** Within 210 days of the effective date of this Order, Respondent shall submit a final report to EPA, summarizing the work completed in fulfillment of the requirements of this Order and as required by the EPA approved Plan. EPA shall notify Respondent in writing as to whether or not the well remediation and report are adequate or if additional measures must be taken.
- e. **Request for Authorization or Permit of Remediated Wells:** Should Respondent desire to continue to utilize any or all injection wells subject to this Order, after the remediation required pursuant to Paragraph 2c of this section is completed, for the disposal of any fluids, Respondent must submit a written request ("Request") to EPA within 120 days of the effective date of the Final Order indicating your desire to obtain a permit for continued injection. This Request must include, at a minimum:
 - (1) The source(s) and type(s) of fluid(s) Respondent wishes to dispose of into the injection well(s).
 - (2) Any treatment of the wastes that will be done prior to injection of the wastes.
 - (3) Any available analytical data demonstrating the levels of contaminants in the fluid(s) Respondent wishes to dispose of into the injection well(s).

Once EPA completes its review of the Request, EPA will send Respondent a written response detailing any additional information that may be needed to evaluate the Request and may include additional requirements that must be met in order for the Request to be approved under Authorization By Permit.

3. The Final Order does not constitute a waiver, suspension or modification of the requirements of 40 C.F.R. §147 Subpart III, which remain in full force and effect. Issuance of the Final Order is not an election by EPA to forego any civil or criminal action otherwise authorized under the Act.
4. Violations of the terms of the Final Order after its effective date or date of final judgment as described in Section 1423(c)(6) of the Act, 42 U.S.C. §300h-2(c)(6), may subject Respondent to further enforcement action, including a civil action for enforcement of the Final Order under Section 1423(b) of the Act, 42 U.S.C. §300h-2(b), and civil and criminal penalties for violations of the compliance terms of the Final Order under Section 1423(b)(1) and (2) of the Act, 42 U.S.C. §300h-2(b)(1) and (2). Failure to act in accordance with this Order truthfully and accurately within the time provided may subject Respondent to sanctions authorized by federal law. In addition, making a knowing submission of materially false information to the U.S. Government may be a criminal offense.

V. Opportunity for a Hearing

1. Respondent may, within thirty (30) days of receipt of this Complaint and as part of any Answer filed in this matter, request a Hearing on the proposed civil penalty assessment and the actions proposed to achieve compliance with the Act, as detailed in Section IV above. At the Hearing, Respondent may contest the factual allegations set forth in the Findings sections above; the appropriateness of any penalty amount, and; appropriateness of any compliance measures contained in Section IV, above. The procedures for the Hearing, if one is requested, are set out in the Consolidated Rules of Practice, including Subpart I. A copy of the Consolidated Rules of Practice is attached.
2. Should Respondent request a hearing on this proposed penalty assessment and/or the compliance measures, members of the public, to whom EPA is obligated to give notice of this proposed action, will have a right under Section 1423(c)(3) of the Act, 42 U.S.C. §300h-2(c)(3), to be heard and to present evidence on the appropriateness of the penalty assessment and compliance measures. Should Respondent not request a hearing, EPA will issue a Final Order and only members of the public who submit timely comment on this Complaint will have an additional thirty (30) days to petition EPA to set aside the Final Order and to hold a hearing thereon. EPA will grant the petition and will hold a hearing only if the petitioner's evidence is material and was not considered by EPA in the issuance of the Final Order.

A. Filing an Answer

3. If Respondent wishes to avoid being found in default, Respondent must file a written Answer to this Complaint with the Regional Hearing Clerk no later than thirty (30) days from the date of receipt of this Complaint. Under authority of 40 C.F.R. §22.17 EPA may file a motion seeking a default order thirty (30) days after Respondent's receipt of the Complaint, unless Respondent files an Answer within that time. If a default order is entered, the entire proposed penalty may be assessed and the proposed compliance measures may be required, without further proceedings.
4. The Answer must clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint with respect to which Respondent has knowledge, or, clearly state that Respondent has no knowledge as to particular factual allegations in the Complaint. The Answer also shall state:
 - a. circumstances or arguments which are alleged to constitute grounds of any defense;
 - b. facts which the Respondent disputes;
 - c. basis for opposing the proposed relief;
 - d. whether a Hearing has been requested.
5. Failure of Respondent to admit, deny or explain any material factual allegations in the Complaint shall constitute admissions of the allegation.

B. Filing of Documents

6. The Answer and any Hearing Request and all subsequent documents filed in this action should be sent to:

Regional Hearing Clerk
U.S. EPA, Region 2
290 Broadway – 16th Floor
New York, New York 10007-1866
8. A copy of the Answer, any Hearing Request, and all subsequent documents filed in this action shall be sent to:

Diane Gomes, Esq.
Assistant Regional Counsel
Water & General Law Branch
Office of Regional Counsel
U.S. EPA, Region 2
290 Broadway – 16th Floor
New York, New York 10007

VI. General Provisions

1. Respondent has the right to be represented by an attorney at any stage of these proceedings.
2. This Complaint does not constitute a waiver, suspension or modification of the requirements of the Act, regulations promulgated thereunder or any applicable UIC permit.
3. Complainant specifically reserves all rights to pursue criminal enforcement as well as the right to initiate an action for imminent and substantial endangerment, including the right to seek injunctive relief and/or the imposition of statutory penalties for those violations not addressed by this Complaint. This reservation of right does not waive any other rights Complainant may have but has not stated herein.

COMPLAINT ISSUED THIS 18th DAY OF JULY, 2012.

A handwritten signature in blue ink, consisting of a large loop followed by a horizontal stroke and a long, sweeping upward stroke.

Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

TNP Trucking, Inc.
129-16 14th Avenue
College Point, NY 11356

Proceedings under Section 1423(c)
of the Safe Drinking Water Act,
42 U.S.C. § 300h-2(c)

DOCKET NO. SDWA-02-2012-8901

**COMPLAINT,
NOTICE OF VIOLATION,
PROPOSED ADMINISTRATIVE ORDER
WITH CIVIL PENALTY AND
OPPORTUNITY TO REQUEST A
HEARING**

CERTIFICATE OF SERVICE

I certify that the foregoing "Complaint, Notice of Violation, Proposed Administrative Order and Opportunity to Request a Hearing" was sent to the following persons, in the manner specified, on the date below:

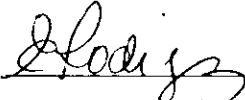
Original hand delivered:

Karen Maples
Regional Hearing Clerk
U.S. EPA, Region 2
290 Broadway
New York, New York 10007-1866

Copy by certified mail
return receipt requested:

Adam Wollmer
TNP Trucking, Inc.
129-16 14th Avenue
College Point, NY 11356

Date: JUL 19 2012

Signed: 

In the Matter of: TNP Trucking, Inc.
SDWA-02-2012-8901

ATTACHMENT 1

Instructions for Underground Injection Control Class V Remediation Plans

To ensure Underground Injection Control (UIC) Class V well remediation and, if applicable, closure, are performed in an environmentally sound manner, the EPA requires the following information to be included in your Class V well Remediation Plan¹:

- A. Schematic diagram displaying the injection well system; the diagram must include all drains, piping, processing units such as oil/water separators or septic tanks, and final discharge mechanisms such as drywells, leach fields or open underground pipe. Note that, for sanitary waste disposal systems, the diagram must clearly indicate whether the facility uses a septic system or a cesspool where cesspools and septic systems are defined as follows:
 - A cesspool is a drywell/leach pit that directly receives untreated sanitary waste containing human excreta. A cesspool system does not utilize a septic tank to retain and treat sanitary waste.
 - In a septic system, sanitary waste is first discharged through a septic tank, where solids are removed and biologic treatment occurs, and the treated sanitary waste is then discharged to a drywell/leachpit or to a drainfield.
- B. Description of all fluids which enter the Class V well;
- C. Statement indicating that the connection between all drains of concern and the injection well (cesspool, drywell, open pipe or leachfield), will be verified;
- D. Description of plug emplacements (if applicable);
- E. Statement indicating that all contaminated liquids, sludge, and contaminated soil will be removed from in and around the Class V injection well until visibly clean soil is reached, or structural integrity of the excavation or buildings or other significant structures near the excavation, may be compromised;
- F. Description of on-site storage while awaiting proper disposal of liquids, sludge and contaminated soil removed from the Class V well system;
- G. Statement indicating that all wastes will be characterized for disposal purposes, in accordance with Federal, State, and local regulations;

¹ Please note, for sanitary systems where a connection to the sewer is not possible, the sanitary system may remain in use as long as the chemical contamination is remediated and the chemical discharge is ceased.

H. End-point sample shall be collected from the cleaned out Class V well, below the point of discharge. The end-point sample shall be analyzed according to well use and injectate constituents. A statement must be included indicating what analytical methods will be used. Recommended EPA methods are included below:

- For volatile organic compounds (EPA Test Method SW-846 8260), semi-volatile organic compounds (EPA Test Method SW-846 8270 base/neutral extraction), and arsenic, cadmium, chromium, and lead by a total metals analysis.
- For industrial discharge wells, the end-point sample shall be analyzed for contaminants present in the injected discharge (analyses may include volatile organic compounds - EPA Test Method SW-846 8260; semi-volatile organic compounds - EPA Test Method SW-846 8270 base/neutral extraction, and metals, herbicides or pesticides).

I. Clean inert soil or sand will be used as backfill;

J. Statement must be included indicating that a final report outlining the remediation procedures used, and including all initial and end-point analyses results and waste disposal manifests shall be submitted to:

Rosa Brignoni, Acting Chief
Ground Water Compliance Section
U.S. Environmental Protection Agency
290 Broadway, 20th Floor
New York, NY 10007-1866

The Class V well work plan must be submitted to EPA and approved by EPA prior to initiation of well initial sampling and/or clean-out activities. You shall be notified that EPA has approved your work plan or that you will be required to modify your work plan to meet the requirements listed above.

In order to receive a letter from EPA documenting proper initial sampling and/or clean-out of your wells, you must submit a final remediation report outlining the remediation procedures that were used, and including all sampling results and waste disposal manifests.