

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

Docket No. CAA-08-2010-0003

2009 NOV 17 AM 10:39

FILED
EPA REGION VIII
HEARING CLERK

IN THE MATTER OF:

Waste Management of Utah, Inc.
8652 South 4000 West
West Jordan, UT 84088

NOTICE OF DETERMINATION

Pursuant to the U.S. Environmental Protection Agency's ("EPA" or "Agency") "Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations" 65 Fed. Reg. 19618 (April 11, 2000) ("Audit Policy"), EPA hereby issues this Notice of Determination ("NOD") regarding violations voluntarily disclosed to EPA by Waste Management of Utah, Inc. ("Waste Management") for the following facility:

Tekoi Balfill Landfill
Section 18, Township 5 South, Range 8 West
Skull Valley Band of Goshute Indians Reservation, Utah

Preliminary Statement

1. The Tekoi Landfill is a bale-fill type landfill. Waste is compacted into bales weighing approximately 4,000 lbs. each. These bales are stacked in the landfill for disposal.
2. Waste Management acquired the Tekoi Landfill on January 31, 2008 from Metro Waste, LLC, through an arm's length asset purchase. On March 3, 2008, Waste Management submitted voluntary disclosures to EPA disclosing potential violations of the Clean Air Act ("CAA"). The disclosed violations have been determined by EPA to satisfy all the conditions set forth in the Audit Policy. These violations thereby qualify for a 100% reduction of the gravity component of the civil penalty.

Findings of Fact

1. The violations that are the subject of this NOD were voluntarily disclosed by Waste Management to EPA in correspondence dated March 3, 2008.
2. Waste Management is a "person" within the meaning of CAA § 302(e), 42 U.S.C. § 7602(e), and operates the Tekoi Landfill which is a stationary source within the meaning of § 302(z), 42 U.S.C. § 7602(z).

3. Waste Management disclosed to EPA the following violations that occurred at its Skull Valley, UT facility:

(a) Failure to submit initial capacity report and Tier I Report as required by 40 C.F.R. Part 60 Subpart WWW New Source Performance Standards (NSPS) for Municipal Solid Waste Landfills

(b) Failure to submit Title V permit application as required by 40 C.F.R. § 71.5

Determination

Based on EPA's review of information and documentation received from Waste Management in the correspondence dated March 3, 2008, and due to the fact that Waste Management has submitted the documents to correct the violations cited above, EPA has determined that:

1. Waste Management has met all of the conditions of the Audit Policy and thus, is eligible for a waiver of the total gravity-based civil penalty for the disclosed violations;
2. No significant economic benefit of noncompliance has accrued to Waste Management as a result of the violations described herein; and
3. Pursuant to the Audit Policy, EPA will not assess a civil penalty against Waste Management for the disclosed violations.

Reservation of Rights

1. If, and to the extent that, any information or statement provided by Waste Management upon which this NOD is based, was false or inaccurate at the time such information or statement was provided to EPA, EPA reserves the right to revoke this NOD and, thereby, render such NOD null and void. Such revocation shall be in writing and shall become effective upon receipt by Waste Management.
2. If, and to the extent that, any information or statement provided by Waste Management upon which any civil penalty mitigation granted herein was based, was false or inaccurate at the time such information or statement was provided to EPA, EPA reserves the right to bring an enforcement action, to, among other things, collect civil penalties for any violation described herein. Such revocation shall be in writing and shall become effective upon receipt by Waste Management.

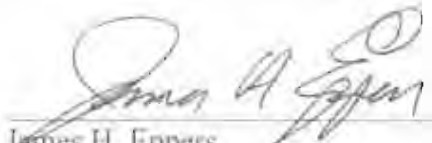
3. Nothing herein shall be construed to limit the authority of EPA and/or the United States to undertake action against any person, including Waste Management, in response to any condition which EPA or the United States determines may present an imminent and substantial endangerment to the public health, welfare or the environment. Furthermore, issuance of this NOD does not constitute a waiver by EPA and/or the United States of its right to bring an enforcement action, either civil and/or criminal, against Waste Management for any other violation of any federal or state statute, regulation, or permit.

4. In issuing this NOD, EPA seeks to promote continued self-auditing by Waste Management, and expects Waste Management to be in full compliance with all environmental requirements and to continue the internal procedures necessary to prevent recurrences of violations of environmental requirements.



Eddie A. Sierra
Acting Assistant Regional Administrator
Office of Civil Enforcement
Office of Enforcement, Compliance and
Environmental Justice

Date: 11/19/2009



James H. Eppers
Senior Enforcement Attorney
Legal Enforcement Program

Date: 11/19/2009