



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
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OFFICE OF
ENVIRONMENTAL CLEANUP

May 7, 2010

The Honorable Alonzo Coby
Chairman of Shoshone-Bannock Tribes
Fort Hall Business Council
P.O. Box 306
Fort Hall, Idaho 83203

Dear Chairman Coby:

This letter is to inform the Shoshone-Bannock Tribes of phosphine gas releases from Pond 15S at the FMC facility and to initiate the consultation process on action needed to address the problem. As part of the Draft Pond 16S amended Post Closure Plan that FMC submitted on April 14, 2010, FMC reported that there have been significant releases of phosphine gas from Pond 15S. FMC also indicated that it has initiated gas extraction from Pond 15S perimeter piping.

The Environmental Protection Agency (EPA) requested additional information, and FMC provided EPA with data and information on the releases and on the steps FMC is taking to address the phosphine gas issue on April 26, 2010. FMC also provided the Shoshone Bannock Tribal Environmental Waste Management Program with that information. A copy of FMC's response is enclosed. The Pond 15S phosphine gas issue and FMC response was one of the subjects discussed at a meeting on April 27, 2010 attended by FMC, EPA and the Tribal Environmental Waste Management Program.

As you are aware, phosphine gas is toxic and its release to air presents a threat to public health and the environment. To ensure that there are not undetected gas issues at other FMC ponds that need to be addressed, EPA will be sending FMC an information request letter requiring FMC to provide any and all phosphine monitoring information it has that it has not already provided to EPA for all the ponds at the facility. EPA will ensure that as EPA receives that data that the Tribes do as well. In addition, EPA has requested, and FMC has agreed to conduct additional gas monitoring at all the FMC ponds. EPA will involve the Tribes and seek the Tribes' input in reviewing and approving plans for this monitoring and again will ensure that as EPA receives the data that the Tribes do as well.

To address the releases at Pond 15S, EPA is planning to issue a Unilateral Administrative Order (UAO) to FMC under the Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA). The Order will require FMC to complete a Time Critical Removal Action to ensure that the immediate problem is being addressed as quickly and as safely as possible. FMC will be required to submit a plan of action for EPA approval. EPA will involve the Tribes and seek Tribal input in reviewing and approving the plan.

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The Order will be for an interim action to address the immediate problem at Pond 15S. EPA recognizes that after this interim action, additional monitoring and/or work on Pond 15S and other ponds may be necessary.

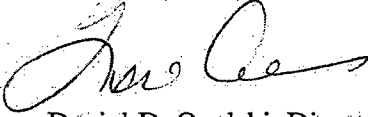
EPA believes that using the CERCLA time critical removal authority is the most efficient and timeliest approach to addressing the immediate problem. Also, using CERCLA authority, EPA can increase its presence at the site. We have assigned Greg Weigel to be the CERCLA On-Scene Coordinator (OSC) to this project. He will be overseeing FMC's work under the UAO. Greg has successfully completed other removal actions on the Fort Hall Reservation in past years, including actions taken under a UAO to address the phosphine gas issues at Pond 16S.

EPA plans to have the draft Order and an attached Statement of Work (SOW) available for the Tribes' review by no later than May 21, 2010. Because of the importance of moving quickly, we ask that the Tribes provide any comments within 10 business days of receiving the draft documents.

Though use of the CERCLA Order does allow EPA to move more quickly, we want to ensure the Tribes' involvement in this matter. We will be requesting the Tribes' review and input on technical documents related to this matter, and we will involve the Tribes in planning our long term approach to the problem. Due to the exigency of the situation and the need for a unilateral order, there will be no negotiations with FMC over the Order, though FMC will be provided with an opportunity to confer with EPA on the Order after it has been issued. The Tribes will be invited to participate in any such conference. We believe the CERCLA UAO is the most expedient way to address the immediate problem.

If the Tribes would like to schedule a conference call to discuss this matter, please let us know as soon as possible, given the urgency of the situation, and we will work with your staff to make the necessary arrangements. Please call me at 206-553-1855 if you have any questions or concerns.

Sincerely,


for Daniel D. Opalski, Director
Office of Environmental Cleanup

Enclosure

cc: Bill Bacon, General Counsel
Shoshone-Bannock Tribes

Kelly Wright, Environmental Program Manager
Shoshone-Bannock Tribes