UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

May 27, 2010

Andrew M. Kenefick
Senior Legal Counsel, Western Group
Waste Management
801 Second Avenue, Suite 614
Seattle, WA 98104

Re: Chemical Waste Management, Inc., Kettleman Hills Facility Laboratory

Dear Mr. Kenefick:

This letter provides notice of compliance concerns identified during a the U.S. Environmental Protection Agency, Region IX (EPA), review of the Chemical Waste Management, Inc. (CWM), Kettleman Hills Facility (KHF) Laboratory. The KHF Laboratory plays a key role in ensuring that CWM complies fully with the Resource Conservation and Recovery Act (RCRA) hazardous waste management requirements, 42 U.S.C. §§ 6921 - 6939e. EPA's investigation of the KHF Laboratory suggests that the KHF Laboratory is producing post-treatment analytical results of unknown quality. As such, those analytical results should not be used for decision making. Unreliable analytical results can result in the improper land disposal of hazardous wastes in violation of California's authorized RCRA hazardous waste management program land disposal restriction (LDR) requirements.

The EPA Management and Technical Services Division (MTS) Quality Assurance Office (QAO) recently completed the first phase of a KHF Laboratory data quality assessment. QAO's assessment included a review of laboratory issues identified in an April 2007 EPA National Enforcement Investigation Center (NEIC) Investigation Report (NEIC Report) on the KHF, and information collected during EPA inspections at the KHF in February, March and April 2010.

Our assessment suggests that the data quality control system at the KHF Laboratory is not adequate to ensure reliable analytical results. For example, as part of an April 2010 EPA Performance Evaluation (PE) EPA-QAO identified a negative bias in cadmium measurements in the KHF Laboratory method 6010B, making cadmium analyses by the KHF Laboratory unreliable for determining whether treatment standards are met. A sample would need to have a minimum of 148 ppb of cadmium before the KHF Laboratory would correctly report that the sample exceeded the 110 ppb treatment standard. KHF Laboratory analyses for zinc also produced unreliable results during the April 2010 PE. The KHF Laboratory performed poorly at measuring concentrations of zinc. See Attachment A to this letter for tables depicting sample results from the April 2010 PE for cadmium and zinc. Furthermore, a review of CWM's response in 2005 to problems with the KHF Laboratory Inductively Coupled Plasma (ICP) Emission Spectrometer suggests a history of poor quality control at the KHF Laboratory. Although CWM's May 2005 attempt to upgrade the software used for the KHF Laboratory ICP unit was not fully successful, CWM continued to use the unit for analyses until

December 2005. These and other observations during this first phase of the EPA-QAO assessment indicate that the data generated by the KHF Laboratory is of unknown quality. Post-treatment disposal decisions based on unreliable analytical data could result in the improper land disposal of hazardous wastes that fail to meet applicable treatment standards.

Any land disposal of hazardous waste that fails to meet treatment standards is a violation of the LDR requirements. To ensure that CWM is not violating LDR requirements, CWM should immediately move to use of a credible independent laboratory for post-treatment analyses. CWM has an obligation to demonstrate that the data it uses for disposal decisions is of known and acceptable quality, especially were specific problems have been identified. Until CWM can categorically establish that the KHF Laboratory is producing reliable analytical results, CWM's use of the KHF Laboratory for post-treatment analysis risks violations of California's authorized RCRA hazardous waste management program LDR requirements.

Under Section 3006 of RCRA, 42 U.S.C. § 6926, violations of the State of California's authorized RCRA hazardous waste management program are federally enforceable. Section 3008(g) of RCRA, 42 U.S.C. § 6928(g), as amended by the Debt Collection Improvement Act of 1996, 40 CFR Part 19, authorizes civil penalties of up to$37,500 per day for each such violation. The LDR requirements are an important part of the federal hazardous waste management program. EPA encourages prompt and complete compliance with all LDR requirements, and will pursue enforcement to deter violations of those requirements.

Please contact Assistant Regional Counsel Letitia Moore at 415-972-3928 or moore.letitia@epa.gov as soon as possible, but no later than June 11, 2010, to discuss your response to this notice. Thank you for your prompt attention to this matter.

Sincerely,

Jeff Scott
Director
Waste Management Division
U.S. Environmental Protection Agency, Region IX

cc: Don Plain (DTSC)

ATTACHMENT A

Table 1: Evaluation of Performance Evaluation Sample Results for Cadmium

Sample ID	Laboratory Results -- Cadmium ppb				Evaluation Criteria	
	KHF	Result Evaluation	EPA	Result Evaluation	True Value	Acceptable Result Range
KH1	-40	**Fail**	2.5	**Pass**	0	-11 to 11
KH2	70	**Fail**	94	**Pass**	100	80 to 120
KH3	160	**Pass**	180	**Pass**	200	160 to 240
KH4	160	**Pass**	180	**Pass**	200	160 to 140
KH5	260	**Pass**	270	**Pass**	300	240 to 360

Table 2: Evaluation of Performance Evaluation Sample Results for Zinc

Sample ID	Laboratory Results -- Zinc ppm				Evaluation Criteria	
	KHF	Result Evaluation	EPA	Result Evaluation	True Value	Acceptable Result Range
KH9	-0.03	**Pass**	NA	NA	0	-1 to 1
KH13	204	**Fail**	710	**Pass**	700	560 to 840
KH14	221	**Fail**	1100	**Pass**	1100	880 to 1320
KH15	232	**Fail**	1400	**Pass**	1500	1200 to 1800
KH16	233	**Fail**	NA	NA	1500	1200 to 1800
KH17	243	**Fail**	NA	NA	1900	1520 to 2280