CONFIDENTIAL

WEEKLY HOT TOPICS REPORT for RA/DRA Region 8
Week ending December 14, 2018

OFFICE OF ECOSYSTEMS PROTECTION AND REMEDIATION

No report

OFFICE OF ENFORCEMENT, COMPLIANCE & ENVIRONMENTAL JUSTICE

HOT ISSUES AND IMPORTANT DEADLINES:

NPDES Enforcement Plans to Send Warning Letters to Seven Facilities for Significant Noncompliance (SNC)

Key Message: NPDES Enforcement plans to send warning letters to seven facilities to notify them the EPA's data indicates they are in significant noncompliance and requesting corrective actions.

- The facilities are in SNC for not submitting discharge monitoring reports (DMRs) within 30 days, and some DMRs are several months late.
- Compliance assistance has been provided to all facilities through phone calls and emails requesting the DMRs be submitted. Additionally, the Montana facilities below, were inspected on September 25, 2018, and their failure to submit DMRs was discussed and included as a finding in our inspection report transmitted to the Tribe on November 6, 2018. To date, the Tribe has not provided a response to our inspection findings letter.
- The warning letter notifies the facility that these are considered potential violations, and if the EPA makes a final determination that a violation has occurred, the EPA is authorized commence enforcement.
- Six of the seven facilities are tribally owned and the Tribal leadership will be copied on the warning letters.
- Technical Contacts: Ken Champagne, 406-457-5025 and Emilio Llamozas, 312-6407; Management Contact: Stephanie DeJong, 312-6362

SDWA Enforcement Issued a Notice of Violation for Loss of Mechanical Integrity Under the Safe Drinking Water Act to the Catamount Energy Partners LLC for a Well Located in Colorado on the Southern Ute Indian Reservation.

Key Message: ECEJ issued the Notice of Violation (NOV) on December 12, 2018, due to a loss of mechanical integrity.

- The Company notified EPA that the Class II injection well lost mechanical integrity on 12/07/2018.
- The underground injection control (UIC) permit requires the Company to maintain mechanical integrity at the well. A loss of mechanical integrity is a violation of this requirement.
- Before injection may resume, UIC regulations require that the company repair the well, successfully, demonstrate the well passed a mechanical integrity test, and obtain a written authorization from EPA. The Company also has the option of properly plugging and abandoning the well. Failure to comply with these requirements may result in an enforcement action.
- EPA has direct implementation authority for this well.
- Technical Contact: Gary Wang, 312-6469; Management Contact: Tiffany Cantor, 312-6521

ED_002434_00004370-00001

OFFICE OF PARTNERSHIPS AND REGULATORY ASSISTANCE

HOT ISSUES AND IMPORTANT DEADLINES:

EPA Region 8, Colorado Department of Public Health and Environment (CDPHE), Jefferson County Public Health (Jeffco) and Terumo BCT Open House

Key Message: Representatives from the above government agencies participated in an open house on December 11, 2018, to answer questions from interested community members about ethylene oxide (EtO) emissions at the Terumo BCT facility. The meeting was from 5:30-7:00 p.m. at the Boy Scouts of America office, 10455 6th Avenue in Lakewood, Colorado.

- Speakers included Dr. Mark Johnson from Jeffco, Carl Daly from EPA Region 8, Tom Gulland from Terumo BCT, and Gordon Pierce and Dr. Mike Van Dyke from CDPHE.
- Following the presentations, the open house style meeting had tables for representatives from the EPA, CDPHE, Jeffco and Terumo BCT, allowing for interested community members to approach each table and ask questions.
- The meeting was attended by representatives from the Lakewood City Council, reporters from the Lakewood Sentinel and Denverite.com and an estimated 10 community members.
- The EPA's primary role at the open house was to explain the August 22, 2018 National Air Toxics Assessment (NATA) and support CDPHE.
- CDPHE developed a document titled, "Ethylene Oxide and Terumo BCT – A guide for the community", to hand out at the open house.
- EPA's NATA modeled potential risk above the 100 in a million threshold around Terumo BCT in Lakewood, Colorado. Terumo BCT voluntarily installed control equipment to mitigate the carcinogenic EtO emissions from its process, and CPDHE conducted pre- and post-control ambient air monitoring to verify that EtO emission reductions have occurred.
- EPA's Office of Air Quality Planning and Standards (OAQPS) is evaluating background EtO monitoring detections in metropolitan areas nationwide to determine the prevalence of the chemical.
- Contacts: Carl Daly, 312-6416; Kerri Fiedler, 312-6493

WildEarth Guardians (WEG) and Center for Biological Diversity's (CBD) Public Hearing Request on the National Proposed Extension of the Attainment Date for the Denver 2008 Ozone NAAQS Nonattainment Area

Key Message: In a November 28, 2018 letter, Robert Ukeiley, Senior Attorney for CBD, and Jeremy Nichols with WEG, requested the EPA hold a public hearing in Denver "to ensure meaningful engagement by those most concerned and impacted" by an extension to Colorado's 2008 ozone moderate attainment date from July 20, 2018 to July 20, 2019, which was proposed in an EPA national rule on November 14, 2018. Their letter also requested the hearing be held in the evening and in English and Spanish.

- In consultation with OAQPS and with support from the RA, the Air Program agreed to contact Mr. Ukeiley and Mr. Nichols to offer them a meeting with the Air Program and OAQPS in lieu of holding a public hearing. We would hear their comments directly, which we would then docket for the rulemaking.
- The Air Program and OAQPS management held a call with Mr. Ukeiley and Mr. Nichols on Monday, December 10, 2018, to gauge their interest in having a meeting with the EPA in lieu of a public hearing on the proposed action. Both requestors reiterated their request for a hearing in Denver to be held in the late afternoon to evening hours. They also clarified that they anticipated a number of Spanish-speaking community members who would want to speak at the hearing and asked if the EPA would accommodate testimony in Spanish and if the EPA would provide

outreach materials (e.g., proposed action fact sheet translated into Spanish and linked from EPA's website).

- The Air Program is working with OAQPS staff to organize a public hearing in the Regional Office, including finding a court reporter to record remarks in Spanish, or a translator for the court reporter to adequately capture statements.
- We have a conference room reserved from mid-afternoon to 8:00 p.m. for January 9, 2019 and for January 23, 2019. The date of the hearing will depend on when OAQPS can get the federal register notice drafted, signed and published to announce the hearing.
- Monica Morales left Garry Kaufmann, Colorado's State Air Director, a voicemail on December 10, 2018 letting him know about the outcome of our call with CBD and WEG and possible dates for a public hearing.
- Contacts: Monica Morales, 312-6936; Scott Jackson, 312-6107

Region 8 RCRP Response to Inquiry* from the Town of Springfield, Colorado, Concerning the Town's "Notification of Intent to Initiate Section 106 Review" under the National Historic Preservation Act

Key Message: On December 6, 2018, RCRP sent a written response to the Town of Springfield regarding their November 12, 2018 letter to the EPA Region 8 Regional Administrator indicating that the EPA does not have concerns or question regarding study of the project area.

- The Town is seeking financial assistance from the U.S. Department of Agriculture – Rural Development for a 2-acre lined landfill expansion project.
- The Town asked if the EPA recommended study of the project area to identify historic properties.
- RCRP reviewed the Town's Environmental Report and conferred with the Colorado Department of Public Health and Environment (CDPHE) solid waste program. No issues or concerns were identified. CDPHE is supportive of the landfill expansion project.
- Additionally, CDPHE and the EPA agree that the project design aligns with the CDPHE's solid waste program regulations and will improve waste management operations.
- Contact: Nancy Morlock, 312-6421

* Correspondence Management System, Control Number: R8-19-000-1419

OFFICE OF TECHNICAL AND MANAGEMENT SERVICES

No report

OFFICE OF WATER PROTECTION

HOT ISSUES AND IMPORTANT DEADLINES:

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

Deliberative Process / Ex. 5

- Deliberative Process / Ex. 5
- Contact: Angelique Diaz, 312-6344

Clean Water Program to meet with Aethon regarding its WYPDES permit and associated Water Quality Standards Actions

Key Message: On December 17, Wastewater and Water Quality staff will meet with representatives from Aethon. The oil and gas company would like to discuss the Use Attainability Analysis that Wyoming DEQ is drafting and plans to submit to EPA in support of a different standard for chloride for the receiving stream to which an Aethon facility discharges. They also wish to discuss with the region's NPDES program their updated chloride modeling. Kevin Frederick, WDEQ water division director, and staff from the WDEQ standards and monitoring and assessment programs will also attend.

- EPA has been working with WDEQ to resolve several issues with this permit. WDEQ is not applying its antidegradation policy previously reviewed and approved by the Agency as part of the state's water quality standards setting, but rather is using a new antidegradation policy which EPA has never reviewed, Deliberative Process / Ex. 5 standard. In this case the result is a draft permit limit that would allow a significant increase in the load of chloride from this discharge into the Wind River.
- The state had also proposed a draft concentration limit for chloride, and a use attainability analysis to develop the alternative, higher, chloride standard. This UAA was originally derived in a fashion that was not fully supported by data, and after hearing EPA's concerns, WDEQ withdrew it. WDEQ is pursuing an alternate approach to the UAA. It was reported in the media that EPA objected to the UAA, which was not correct.
- WDEQ has told EPA that Aethon is very concerned about the chloride limits (load and concentration) as they do not want to provide additional treatment to meet the limit. WDEQ has also reported that Aethon is opposed to a compliance schedule for the concentration-based chloride limit.
- Contacts: Colleen Rathbone, 312-6133; Qian, 312-6267; Tonya Fish, 312-6832

Region 8 Water Program Met with Town of Afton, Wyoming and Wyoming DEQ in Cheyenne on December 10, 2018 Regarding Afton's Periodic Spring Source of Drinking Water

Key Message: Afton is moving forward to install an improved barrier protection for its Periodic Spring water supply, and a compromise was reached wherein WY DEQ will review available information to better understand the hydrogeology of the water source.

- A principal source of community water supply for the Town of Afton is the Periodic Spring, which is a geologic phenomenon that flows periodically and attracts tourists to the Town.
- After receiving EPA Region 8's letter specifying required actions to protect their spring water supply, Afton requested a meeting to discuss issues with EPA and Wyoming DEQ. That meeting took place at the DEQ office in Cheyenne on December 10, 2018
- The Town and DEQ provided information on a design for a physical barrier to prevent contamination from entering the water supply at the mouth of the spring, and DEQ is almost finished with its review and approval of the design. The design meets EPA's expectations.
- Afton discussed its concerns with the EPA's requirement to install a sampling station for measuring the turbidity of the spring's water. EPA explained the purpose of the sampling, which is to evaluate the trends in turbidity as a surrogate for potential surface water influence of the spring source. Afton has experienced spikes of high turbidity in the past which were never adequately explained.

- WY DEQ offered the following alternative approach: DEQ staff, including a geohydrologist, will review available historical sampling data and engineering reports to gain a better understanding of the hydrogeology of the spring system and filtration of the water from the recharge area. DEQ will draft a summary report and the parties will reconvene once complete to determine next steps forward.
- Senator Barrasso from Wyoming has expressed interest in this issue and requests periodic updates from EPA.
- Contact: Lisa Kahn, 312-6896

R8 OWP will act on the Triennial Review of Utah's Water Quality Standards

Key Message: The Region is preparing to approve a majority of a large number of water quality standards (WQS) changes adopted by Utah. R8 and Utah agreed EPA will not act on provisions with errors and Utah is already working to adopt corrections to those provisions. This action will reduce our backlog of WQS actions.

- Utah revised over a hundred-human health and aquatic life criteria; designated uses for recreation, drinking water, and aquatic life; and upgraded antidegradation and public participation policies.
- Utah spent over a year reviewing new scientific data and WQS policies; conducting outreach with interested parties; and broadcasting public notifications and holding public hearings. The state staff did a great job managing hundreds of revisions in this WQS review.
- **Deliberative Process / Ex. 5**
- OWP is working with ORC to finalize the supporting materials and anticipates signing the WQS action letter within the next 2 weeks.
- Contact: George Parrish, 312-7027; Sandra Spence, 312-6947

ED_002434_00004370-00005