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DEPARTMENT OF
ENVIRONMENTAL
QUALITY

NORTHWEST REGION

FILE COPY

October 30, 1996

MR MARK ROGERS
VAN WATERS AND ROGERS
3950 NW YEON AVENUE
PORTLAND OREGON 97210

RE: Multnomah County
Van Waters and Rogers
ORD 009227398
NWR-HW-096-091
NOTICE OF NONCOMPLIANCE

Dear Mr. Rogers:

On October 18, 1996, representatives from the Department of Environmental Quality, (DEQ) performed an inspection of your facility located at 3950 NW Yeon Avenue in Portland, Oregon. As a result of that inspection the following violations were found:

VIOLATION 1: 40 CFR 262.34 (a) (2) adopted by OAR 340-100-002 by failing to date a container with hazardous waste with an accumulation start date.

VIOLATION 2: 40 CFR 262.34 (a) (3) as adopted by OAR 340-100-002 by failing to label a drum storing hazardous waste with the words, "Hazardous Waste".

There was one drum containing hazardous waste located in a maintenance area. This drum was identified during the inspection as containing a solid waste contaminated with solvents. The facility corrected violation 1 and 2 at the time of the inspection.

VIOLATION 3: 40 CFR 268.7 (a) (4) as adopted by OAR 340-100-002 by not retaining copies of several Land Disposal Restriction Forms, LDR.

There were several manifests missing LDR forms. The manifest document numbers are listed in the attached inspection report.

USEPA RCRA
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VIOLATION 4: ORS 468.095(1) by failing to supply records requested on the waste determination for the site groundwater.

It is likely that these record are available at the facility, however, because of a large volume of records related to the site cleanup these records could not be located during the inspection.

VIOLATION 5: OAR 340-102-011 Van Waters and Rogers failed to adequately perform a hazardous waste determination on three waste streams which were generated by the facility. Those waste streams are: spill cleanup

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waste generated by the facility's general operation, waste soil collected during a sewer investigation project, and soil excavated during the installation of a soil vapor recovery system. Below are the details outlining these waste streams:

Spill clean up material: During the site inspection there were some spill pads observed in the trash in the solvent packaging area. The manifest records were reviewed and there was no indication through the records that this waste stream was being managed as a hazardous waste at the facility. There were no observations made that this waste was being collected on-site. The facility is a Large Quantity Generator, LQG and cannot place this waste stream in the garbage it is a hazardous waste.

Soil from sewer project: There were five yards of soil collected in a roll-off box at the facility from a sewer project. I spoke with the facility's consultant regarding the soil. He said that the waste was generated in August and that samples were collected, however, the status of the data was unknown. These sample results should not take two months to receive from the lab. Additionally no documentation was provided with respect to the active management of this waste stream such as chain-of custody or, preliminary data. The roll-off container was not marked, " waste determination being performed" or dated with an accumulation start date.

Soil from the trenching Project: There was some analytical data supplied with this soil however, based on the information received there is a concern with respect to how the determination was done and if it was correct. There were 167 tons of soil excavated from the site to put in a soil vapor recovery unit to do an on-site treatment of soils. These soils were shipped off-site as non RCRA waste to Chemical Waste Management in Arlington. If these soils had detectable levels of the solvent contamination listed above health based standards, the soils would have to be managed differently. This waste stream is banned from land disposal and would require incineration.

Based on the preliminary data that I have reviewed in the DEQ files, historical data shows that there is both F-listed and U-listed contamination present in surface soil samples taken at the site in 1987. There had been no removal or treatment of these soils until this trenching project to put in this treatment system. The records review did not indicate that the contaminated soils were segregated from the non-contaminated soils. If a hazardous waste is mixed with a nonhazardous waste then the whole mixture becomes a hazardous waste.

It appears that these waste soils were not characterized correctly for the following reasons: The lab data indicates that composite samples were collected. The requirements outlined in SW 846, state that these soil samples need to be discrete samples and statistically representative of the waste stream. Discreet samples need to be taken so that the samples are not a dilution of the waste stream. The samples were tested using 1311, followed by 8240, this test method was also not an appropriate method for testing for F-listed and U-listed solvents. This test method effectively diluted the sample results even more than the sampling technique. That testing procedures is for characteristic waste and uses a twenty to one dilution of the sample in the test method. With these constituents a total analysis should have been done. There is analytical data for the filters used in the vapor recovery system and there is a substantial recovery of solvents in these filters. They are being disposed of off-site as F-listed and U-listed solvents and are

incinerated. Considering that this is a soil treatment system it would be logical to assume that the soil is contaminated with the same waste streams and should have been managed as hazardous waste.

I spoke with representatives of Region 10 EPA and I have been informed that this removal project and the soil vapor recovery unit were done without their oversight. The soil removal and waste determination was done without their knowledge or approval as well. In the original cleanup order Van Waters and Rogers is required to comply with the requirements of 40 CFR 262.34 generator requirements which include performing a waste determination.

These violations include Class I violations and are considered to be serious violations of Oregon Environmental Law. A determination will be made based on the information received as to whether or not the Department will proceed with a more formal enforcement action. Formal enforcement actions may include civil penalty assessments. Civil penalties can be assessed for each day of violation.

To address these violations the following must be done by the dates listed below:

Violations 1 and 2 were corrected at the time of the inspection.

Violation 3. I have received a response dated October 24, 1996 regarding the LDR forms. All copes have been received except one. On copy 91474 it is stated that the waste did not have RCRA waste codes, therefore, the waste did not need an LDR form. As I recall this was a lab pack and Texas waste codes were used in lieu of federal codes on the manifest, however, the lab pack listed the federal waste codes. If this was the case then there needs to be an LDR form, and the federal codes should be referenced in section J of the manifest, instead of on a corresponding lab pack list. Please recheck the lab pack list. If there are federal waste codes then you will need to fill out an LDR form and send it to Texas. Please send me a response as to the outcome and a copy of the LDR form if it is applicable. In the future this is how lab packs need to be handled. Submit this information to me within fifteen days of this Notice.

Violation 4. This information has been submitted to me. It appears that the groundwater was a hazardous waste and was managed accordingly.

Violation 5. The waste streams are listed below with the corrections for each:

Spill Waste: please submit photodocumentation to demonstrate that this waste stream is being collected and properly managed. This should be a photograph of a satellite collection container for this waste stream in the solvent area. Submit this information to the Department within fifteen days of this Notice.

Sewer Removal Waste: This information was submitted to me in your response. It appears that this data had been received by your remediation group, however, that information was not relayed to you. Please submit photodocumentation that this container is properly labeled and dated. The accumulation start date should be August 6, 1996. You will also need to submit a hazardous

waste manifest for this waste to me by November 6, 1996. Please be aware that this waste cannot go to the Arlington Chemical Waste Management landfill. This waste would require incineration.

The Soil vapor recovery unit soil: Please submit information regarding the sampling. For example, how many sampling points were used to make the composite samples; a map of the facility showing where these soils were removed with a reference of their relationship to soil borings; monitoring wells; the historical distillation area and the current warehouse; the information regarding the depth of the soil removed; copies of all manifests, or bills of lading related to the removal of these soils. I currently have the following manifests 94570, 94510, 94520, 94530, and 94560 (the last two numbers cannot be read this is a guess), and I will not need copies of those. If there are any other manifests for this waste stream please submit copies to the Department along with any other reasoning or explanation that the facility may have as to why a determination was made that these soils were non-hazarodus waste. This particular violation and waste stream is considered the most serious violation found at the facility and may result in a referral to the enforcement section. You will receive an additional Notice of Noncompliance if it is warranted to notify you of other violations and the referral to enforcement. Please submit this information to my attention within fifteen days of this Notice.

In closing I would like to thank the facility for its timely response regarding the issues found at the site. One other recommendation I have is that the facility appears to be acting as two separate entities, the site cleanup and the operations. The DEQ looks at this facility as one location. It is extremely important that the environmental person be aware of the activities that are taking place as a result of the site cleanup. The majority of the violations observed were the result of information not being relayed to that person at the facility. If you have any question or concerns regarding this Notice please feel free to contact me at 229-5543.

Sincerely,

Rebecca Paul

Rebecca Paul
Environmental Specialist
Northwest Region

Cc: Al Odmark: Region 10 EPA
Jim Vilendre:WMC
Enforcement Section: DEQ

Enclosures: Inspection report