



State of Utah

GARY R. HERBERT
Governor

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Lieutenant Governor

Department of
Environmental Quality

Amanda Smith
Executive Director

DIVISION OF ENVIRONMENTAL
RESPONSE AND REMEDIATION

Brent H. Everett
Director

FILE COPY

ERRL-0518-11

August 4, 2011

Craig Larson, President
Top Stop Convenience Stores
2046 East Murray-Holladay Road, Suite 200
Holladay, Utah 84117



Re: Corrective Action Plan Denial

Top Stop C-4, located at 15 South Main Street, Gunnison, Utah
Facility Identification No. 2000220, Release Site EMHB

Dear Mr. Larson:

The Division of Environmental Response and Remediation (DERR) has completed its review of the supplemental information prepared by Wasatch Environmental, Inc., in response to the DERR's "Meeting Re-Cap and Response to Wind River and Wasatch Environmental Letters" received by the DERR on May 26, 2011. Based upon our review, it appears that Wind River and Wasatch are in general agreement with some of the DERR requirements. However, the information submitted does not satisfactorily address all the issues noted in the previous comment letters.

The following are the DERR's responses to the specific issues outlined in your consultants' letters:

1. **Sub-Slab Sampling.** RMEC Environmental responded under separate cover to the request for continued sub-slab sampling. The DERR responded to Wind River in a letter dated July 11, 2011. At this time, Wind River is required to continue the sub-slab and indoor air monitoring in all locations that exceed the screening levels cited in the RMEC sampling plan on the schedule proposed therein.
2. **Central Soil Vapor Extraction (SVE) System.** Wasatch contends that existing data supports the decision to keep the system off and additional site-wide sampling will be conducted to further support this decision. The DERR disagrees that the current data provides a sufficient basis for leaving the system off and is requiring additional soil and groundwater sampling to verify that human health and the environment are being protected. Wasatch stated that "A draft work plan will be

submitted to the DERR for review by June 30, 2011.” To date, no additional details regarding the referenced sampling have been submitted to the DERR. All areas within the perceived footprint of the Central system will need to meet established cleanup levels for both soil and groundwater in order for the system to remain off. If cleanup levels are exceeded, the system will have to be made operational to address those areas or an alternative remediation technology will have to be proposed, approved, and implemented.

3. **Supplemental Corrective Action Plan (CAP) Information – Extension of Public Notice.** During the public notice period from January 31, 2011, through March 4, 2011, the DERR did receive several comments that precipitated the additional DERR requirements and extension of public notice.

- a. Wind River must perform groundwater sampling along Main Street between the former Top Stop and monitoring well MW-27 to fill in the current data gap. The DERR understood that a draft work plan for this sampling was to be submitted by June 30, 2011. However, no additional details regarding the referenced sampling have been submitted to the DERR to date.
- b. It is unfortunate that the drawings for each remediation system included in previous submittals are “neither complete nor correct representations of the finished systems.” However, the DERR is still requiring “complete and correct representations of the finished systems” for all system components, including all trenches on public and private property that were excavated and filled with ‘flow-fill’ or some other material. You may have to physically survey all system components, trenches excavated, and lines installed to create accurate “as-built” drawings for the CAP.
- c. Payment documentation was provided by e-mail to the DERR Project Manager as requested. Wind River documentation matches the property owner’s reimbursement records. However it appears there were several months that the property owners were out of their home without receiving “temporary or permanent relocation” expenses pursuant to Utah Code Ann. § 19-6-402(8)(g). Please document how the missing months were resolved to meet the needs of the CAP.
- d. The DERR has requested that the CAP include a plan to address residual soil and groundwater contamination that may not be addressed by the SVE systems as a plan for moving forward with the cleanup process. Wasatch stated that “... the selected technology (SVE) is the technology that will be used for the corrective action moving forward.” If residual soil and groundwater contamination does exist in areas outside currently operating SVE systems as determined by the proposed site-wide sampling discussed in section 2 above, the CAP must include a plan to address that contamination and a detailed discussion of the rationale for selecting a

specific technology. Based on the Wasatch letter, Wind River should complete the site-wide sampling effort to determine if and where any current residual impacts exist prior to re-submitting the CAP Addendum and beginning a new public comment period.

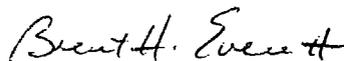
- e. The DERR has requested that Wind River mitigate adverse consequences from cleanup activities undertaken prior to an approved CAP. The adverse consequences may include subsurface piping and flow-fill terminated below the ground and abandoned in place. Wind River contends that the settlement agreement addressed and resolves all claims related to the release. However, as stated previously, the DERR was not a party to the settlement agreement, and the settlement agreement does not relieve Wind River of regulatory requirements. 40 CFR § 280.66(d)(2), incorporated by Utah Admin. Code R311-202, provides that owners and operators may begin cleanup of soil and groundwater before a CAP is approved, only if they “comply with any conditions imposed by the implementing agency, including halting cleanup or mitigating adverse consequences from cleanup activities.” The DERR, as the implementing agency, is requiring Wind River to provide a plan to mitigate adverse consequences to off-site properties caused by the installation of the remediation systems, including, but not limited to, the sub-surface piping and flow-fill trenches.

Based on the ongoing dialogue and the DERR not having received a complete and acceptable CAP, the CAP Addendum is hereby disapproved and a new CAP must be resubmitted pursuant to Utah Code Ann. § 19-6-420(7).

A work plan for the site-wide sampling plan must be submitted by August 15, 2011. A new CAP must also be submitted by October 3, 2011.

If you have any questions concerning this matter, please contact **Morgan Atkinson**, your DERR Project Manager, at (801) 536-0052.

Sincerely,



Brent H. Everett, Executive Secretary (UST)
Utah Solid and Hazardous Waste Control Board

BHE/MPA/lkg

cc: Bruce Costa, Ph.D., Director, Central Utah Public Health Department
John Chartier, District Engineer, Utah Department of Environmental Quality
Lori Nay, Gunnison City
Les Pennington, Wasatch Environmental