



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

CAT 000 646 117
PCB - 1E-1
A/R

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

December 21, 2009

Mr. Tristan Tozer
State Historian I
Office of Historic Preservation – California Parks and Recreation
1416 9th Street, Room 1442-7
Sacramento, CA 95814

Re: Compliance with Section 106 of the National Historic Preservation Act for the Renewal and Modification of Toxic Substance Control Act (“TSCA”) Polychlorinated Biphenyls (“PCBs”) B-18 Permit - Kettleman Hills Facility

Dear Mr. Tozer

The U.S. Environmental Protection Agency (“U.S. EPA”) is considering an application from the Chemical Waste Management Inc. (“CWM”) to renew and modify its Approval (“Permit”) under the TSCA to store, manage and dispose of wastes containing PCBs at its facility located at 35251 Old Skyline Road, Kettleman City, CA 93239. We are seeking your input on this undertaking as it applies to the requirements of Section 106 of the National Historic Preservation Act (“NHPA”). Section 106 of the NHPA requires Federal agencies to take into account the effects of their undertakings on historic properties, and to afford consulting parties and the public reasonable opportunity to comment.

The Chemical Waste (“Facility”) is located in western Kings County, California, in the Kettleman Hills which borders the west side of the San Joaquin Valley, approximately 2.6 miles west of Interstate 5 and State Route 41 intersection (Figure 1). The 1,600-acre Facility is within a rectangular area bounded on the northwest (Lat. 35.977728, Long. -120.030613), northeast (Lat. 35.978076, Long -120.005606), southeast (Lat. 35.949384, Long. -120.004520), and southwest (Lat. 35.949523, Long. -120.030527). Five hundred acres of the site are currently used for treatment, storage, and disposal of hazardous and municipal solid waste. The remainder is currently used for cattle grazing.

Area of Potential Effects

The facility is currently operating under a 2003 Resource Conservation and Recovery Act (“RCRA”) Permit issued by the Department of Toxic Substances (“DTSC”) to manage hazardous waste and a separate TSCA Permit from the U.S. EPA to dispose and store PCB waste that was issued in 1992. The action we are considering includes: (1) a renewal of the TSCA Permit conditions for existing units that store, manage and dispose of PCB wastes, and (2) a

modification to expand landfill B-18 vertically and horizontally by adding 11 acres (collectively, the "Project"). Our proposed Area of Potential Effects ("APE") includes the existing footprint of landfill B-18 and the expansion area (Figure 2).

Cultural and Paleontological Resources

An archaeological study was conducted by TRC Companies, Inc. at the Facility in 2002, and a supplemental survey was conducted in 2003 (see Figure 3 for the boundaries of the onsite archaeological survey area). These efforts included an examination of archaeological archival site records, maps, and project files. The archival search involved the use of the Southern San Joaquin Valley Information Center in Bakersfield, California, and revealed three prior archaeological surveys in or near the Project area which identified two isolated occurrences ("IOs") within the Kettleman Hills Facility. The two IOs consist of an assemblage of historic debris, including glass bottle fragments, which are believed to date to the 1880-1890 period (IF-KIN-003), and a charmstone of unknown cultural and temporal affiliation (IF-KIN-001). Neither of these isolates are considered to be a significant cultural resource.

The investigations conducted in 2002 and 2003 concluded that the proposed Project area does not contain potentially significant archaeological resources (TRC 2004 – Confidential Survey Report). Therefore, mitigation measures are not required. However, the *Final Subsequent Environmental Impact Report ("FSEIR"), B-18/B-20 Hazardous Waste Disposal Project, Kettleman Hills Facility, Chemical Waste Management, Inc., CH2M HILL September 2009 (State Clearinghouse No. 2005041064)* concluded that the potential exists for unidentified archaeological resources to be discovered during ground disturbance during the project construction. Therefore, there is the potential for disturbances of (as yet) unidentified archaeological resources. In such an event, impacts would be considered significant before mitigation. Two archaeological resources mitigation measures ("MM") MM.1 and MM.2 have been included in the FSEIR and will be implemented in the event that archaeological resources are encountered during construction of the proposed Project. With implementation of these mitigation measures, impacts to archaeological resources would be less than significant.

Paleontological studies concluded in 1984 and 2002 determined that the general sensitivity of the Project area for paleontological resources is potentially significant. Project-related excavation activities could result in the disturbance of fossil resources. The FSEIR concluded that probability of fossil occurrence in the proposed Project area appears to be moderate to high based on previous studies. Therefore, because the proposed Project involves disturbance of new land for the B-18 Landfill expansion, there is a moderate to high probability of impact on paleontological resources. Mitigation measures (MM.3, MM.4, and MM.5) will be implemented in the event paleontological resources are encountered during the Project construction.

These mitigation measures have been incorporated into the FSEIR and will reduce impacts to less than significant for archaeological and paleontological resources for the proposed Project. The FSEIR has been prepared in accordance with the California Environmental Quality Act ("CEQA") (California Public Resource Code [PRC] Section 21000 et seq.) and its implementing guidelines from the California Code of Regulations (CCR) Title 14, Section 15000 et seq. The

Kings County Community Development Agency is the CEQA lead agency for the proposed Project and will enforce the mitigation measures through the Land Use Permit.

Mitigation Measures

MM.1

If unique archaeological resources are encountered during Project construction activities, earth-moving activity in the immediate area shall cease until a qualified archaeologist is contacted, and the archaeologist has examined the findings, determined their significance, and recommended appropriate measures per California Environmental Quality Act ("CEQA") Guidelines Section 15064.5. The archaeologist shall prepare a final written report of his or her investigation, findings and recommendations and shall submit the final report to the County within 30 calendar days after the investigation is completed.

MM.2

If human remains or bone of unknown origin are found during the conduct of the proposed Project, work in the vicinity shall stop, and the Kings County coroner shall be contacted, per California Health and Safety Code ("HSC"), Section 7050.5, and CEQA Guideline Section 15064.5. If the remains were determined to be Native American, the coroner shall notify the Native American Heritage Commission, which would notify the person considered the most likely descendant. Facility personnel will then work with the most likely descendant to arrange for the remains to be reinterred. Work near the find shall resume after the human remains have been removed.

MM.3

For every 20,000 cubic yards of soil excavated as part of the Project, Chemical Waste Management Inc. will have a qualified paleontologist conduct a paleontological investigation that will document exposed geological formations, their potential for containing fossil remains, and direct observation of fossils and an assessment of their significance. The paleontologist shall prepare a final written report of his or her investigation, findings and recommendations, and shall submit the final report to the County within 30 calendar days after the investigation is completed.

MM.4

Chemical Waste Management Inc. shall provide up to 4 hours of training to equipment operators and field engineers on the identification of paleontological remains. The training shall be provided before the commencement of excavation activities in undisturbed areas and shall be conducted at the excavation site by a qualified paleontologist.

MM.5

Chemical Waste Management Inc. shall notify the Kings County by letter if staff or paleontologists encounter significant remains during excavation and shall provide for a paleontological investigation. The paleontologist shall prepare a final written report of his or her investigation, findings and recommendations, and shall submit the final report to the County within 30 calendar days after the investigation is completed.

Implementation of the mitigation measures listed above would reduce impacts to cultural and paleontological resources that may be discovered to less than significant. Should any previous-identified potentially significant archaeological resources be found during the B-18 expansion, Chemical Waste Management Inc. will notify your office within 48 hours in compliance with 36 C.F.R. § 800.13(b)(3).

Pursuant to 36 C.F.R. § 800.4(d)(1), and in accordance with these mitigation measures U.S. EPA has made a determination of "No Historic Properties Affected" for renewal of the Permit and the expansion of Landfill B-18 at the Facility. Please let us know within 30 days of receipt of this letter if you object to this determination. Thank you for assisting us in our NHPA compliance. If you have any questions, please contact Chip Poalinelli of my staff at (415) 972-3390.

Sincerely,



Cheryl Nelson, Manager
RCRA Facilities Management Office

Enclosures:

- Figure 1 – Kettleman Hills Facility
- Figure 2 – Area of Potential Effects
- Figure 3 – Cultural Resources Survey Area

cc: w/enclosures

Ruth Adviento Cayabyab
Project Manager
Hazardous Waste Permitting
Operating Facilities Team
Department of Toxic Substances Control
8800 Cal Center Drive, Sacramento, CA 95826

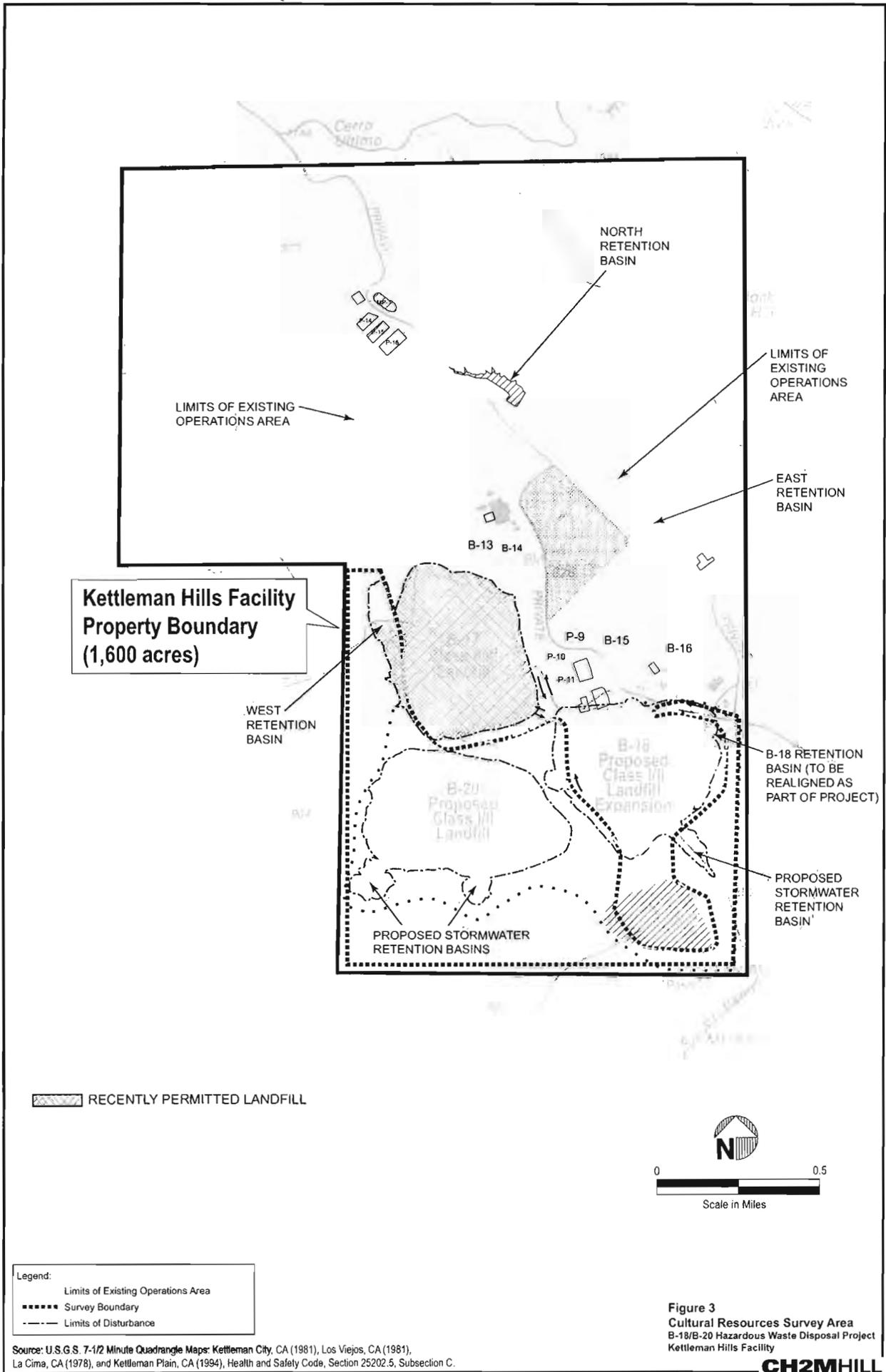
Chemical Waste Management Kettleman Project File
Administrative Record



Figure 1
Chemical Waste Management Inc.
Kettleman Hills Facility
Section 106 National Historic Preservation Act



Figure 2
Chemical Waste Management
Kettleman Hills Facility
Area of Potential Effects
Section 106 National Historic Preservation Act



Source: U.S.G.S. 7-1/2 Minute Quadrangle Maps: Kettleman City, CA (1981), Los Viejos, CA (1981), La Cima, CA (1978), and Kettleman Plain, CA (1994), Health and Safety Code, Section 25202.5, Subsection C.

Figure 3
Cultural Resources Survey Area
 B-18/B-20 Hazardous Waste Disposal Project
 Kettleman Hills Facility