



October 9, 2018

Ms. Rachel Miller
Compliance Specialist
Pennsylvania Department of
Environmental Protection
Waste Management Program
2 Public Square
Wilkes Barre, PA 18711-0790

**Re: Keystone Sanitary Landfill, Inc.
Permit # 101247
Response to PADEP NOV Dated 9/20/18**

Dear Ms. Miller:

Keystone Sanitary Landfill is submitting the below detailed Action Plan and Schedule to address the issues noted in the Department's "Notice of Violation" dated September 20, 2018 which was received by Keystone by certified mail on September 24, 2018.

Before addressing the Action Plan and Schedule, it is essential that we memorialize certain historical background that is pertinent to the issue of the minimum volume of reserve storage capacity required by a permittee under PA Code Section 273.275(b).

During the summer of 2016 discussions were conducted at the Monthly Engineer's/Inspection meetings as to the basis for the Department's interpretation of the minimum lagoon reserve storage capacity under 25 PA Code 273.275(b). Keystone was advised that it was the Department's position that the control parameter utilized was that "NO more than 25% of the total storage capacity MAY be used for flow equalization on a REGULAR basis". Thus, under the Department's position, by default a minimum of 75% of the total surge capacity must be maintained on a REGULAR basis to safeguard against emergency conditions (i.e. surge), that could result in a potential critical level in the lagoon containment and/or an uncontrolled discharge of untreated leachate.

The above referenced code (25 PA Code 273-275(b)) also states "the onsite leachate storage facility shall have sufficient storage capacity AT LEAST EQUAL to the maximum expected production of leachate for any thirty day period for the life of the site estimated under 25 PA Code 273.162".

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The existing Keystone Permit documents developed under 25 PA Code 273.162 establishes that the maximum thirty day leachate generation during the life of Keystone is 3,000,000 gallons. Accordingly, per the Department's position, the storage capacity that MAY be used for flow equalization amounts to 750,000 gallons and the required volume of storage capacity to be reserved for emergency conditions amounts to 2,250,000 gallons.

The Department has enforced the 25% total storage volume for flow equalization as the control value for compliance with 25 PA Code 273.275(b). Subsequently, it is used as the basis for the subject Notice of Violation.

By correspondence dated January 4, 2017, Exhibit No. 1, Keystone presented its foundation as to why compliance with 25 PA Code 273.275(b) should be based upon the total volume of storage capacity Keystone was required to provide per 25 PA Code 273.162 (i.e. 3,000,000 gallons) and not the total storage capacity of 11,000,000 gallons that Keystone opted to install.

From Keystone's perspective the logic behind the requirement that 25% of the total storage capacity MAY be used for flow equalization was to ensure that the required 75% of the storage capacity was held in reserve to eliminate the potential for on/off site environmental impacts. As such, that figure should be the controlling parameter in determining compliance with 25 PA Code 273.275(b) because the reserve capacity is the mechanism that will protect the facility and the environment from the lagoons reaching a critical level and not the capacity the operator deems appropriate for the most efficient operation of its wastewater treatment process. Hence, the available reserve capacity, after flow equalization is the critical component of 25 PA Code 273.275(b) and not the storage capacity the operator MAY use for flow equalization.

A review of the lagoon capacity contained in the Department's Monthly Engineer's Report during the period noted in the Notice of Violation (i.e. October 2016 thru August 2018) reveals that only during March 2017 when the reserve capacity was 2,133,000 gallons and August 2018 when the reserve capacity was 2,224,000 gallons respectively did Keystone not maintain the required 2,250,000 emergency storage capacity, refer to Table A.

Moreover, Table A shows that Keystone has complied with 25 PA Code 273.275(b) because on a REGULAR basis it has provided the requisite reserve storage capacity. Communications with other owners/operators of municipal solid waste permitted facilities in all regions of the Commonwealth has established that numerous facilities have been afforded considerable time latitude in restoring their storage facilities to the 75% reserve capacity availability threshold following significant precipitation events without a Notice of Violation being issued to these facilities.

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Keystone again asks that the Department review the rationale and purpose of the requirements of 25 PA Code 273.275(b). In our view and as documented herein, the control mechanism for compliance should be maintaining the required 75% reserve storage capacity of the total volume required to be computed under 25 PA Code 273.162 and 25 PA Code 273.275(b). Upon the completion of said review, Keystone requests that the Department provide official guidance to Keystone and all other municipal solid waste permittees as to the implementation of the control criteria for 25 PA Code 273.275(b) to avoid any future issues of this nature and ensure the regulation is universally applied through the Commonwealth.

Interpretation and enforcement of 25 PA Code 273.275 has been the subject of numerous discussions by a committee comprised of PADEP personnel, industry engineers and consultants, PWIA representatives and solid waste facilities owners/operators. It is the consensus of this committee, including the Department's representatives, that 25 PA Code 273.275 requires revision and/or clarification either by a technical policy memorandum, standard operating procedure modifications or total regulatory revision.

Finally, it is imperative to note that during the timeframe contained in the Notice of Violation, despite record precipitation events, not one drop of untreated leachate was conveyed to the PAWC collection facility.

Action Plan and Schedule

In the Keystone Phase 3 response letter dated August 23, 2017 to the Department's concerns of "excess flows" contained in the comment letter dated May 25, 2017, a comprehensive site investigation, sampling/testing/analysis, technical evaluation and mitigation program was detailed that led to the conclusion that the primary source of the "excess flow" was stormwater inflow into the leachate collection piping at several locations. At that time, Keystone anticipated that timely input would be received from the Department on the planned mitigation program. However, because of an extended delay in the completion of a PA Department of Health Study, the Department has been unable to provide Keystone with guidance as to the acceptance of the proposed mitigation plan. The applicable narrative, data and mitigation plan forwarded in Keystone correspondence dated August 23, 2017 are attached in Exhibit 2.

Subsequent to the unusually intense precipitation events during July, August and September of 2018, extensive field investigations were reinstated to establish all sources of the stormwater inflow that is entering the collection system and being conveyed to the lagoons. Geophysical surveys, underground line tracing, test pits and sampling/testing have been and continue to be performed on a daily basis.

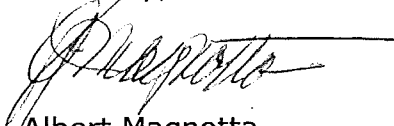
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As part of the process, Keystone has identified and isolated stormwater inflow that was entering the collection system at the twenty five foot setback required 25 PA Code 273.252(d)(1) between Pads 10 and 11. Using a combination of temporary liner, rainflaps and stormwater diversion swales, the metered flows for Phase 2 and the lagoons have been reduced. Photographs of these mitigation measures are contained in Exhibit 3. The rainflaps, temporary liner and stormwater diversion ditches at Phase 2 were completed on September 24, 2018. The July and August precipitation totals of 17.4 inches significantly stressed our ability to maintain the required reserve storage capacity. This occurrence was compounded by the fact that annual precipitation totals in our region in 2018 are 50% greater than the historical average. As noted in Table A, Keystone was only 26,000 gallons below the required capacity of 2,250,000 gallons during August 2018. These mitigation measures were observed during the Department's unannounced inspection of September 27, 2018.

In our letter of August 28, 2018, Exhibit 4, Keystone detailed the measures invoked by Keystone under 25 PA Code 273.275(d) to address this issue. Steps implemented included off site hauling to a permitted facility, on site temporary storage in a 739,000 gallon permanent dual contained tank, storage in a 1,700,000 gallon temporary dual contained facility and temporary storage in twenty-four 21,500 gallon dual contained transport tanks.

Keystone has implemented currently on a daily basis and will continue as necessary a program to identify and mitigate all sources of the stormwater inflow into the collection system. However, we require guidance from the Department as to the application of 25 PA Code 273.275(b) and the viability of our proposed mitigation plan that was submitted on August 23, 2017 and is herein incorporated.

Sincerely,



Albert Magnotta
Consultant

cc: Keystone Sanitary Landfill, Inc.
Dunmore Borough
Throop Borough