



STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LANSING



ENNIFER M. GRANHOLM  
GOVERNOR

STEVEN E. CHESTER  
DIRECTOR

December 23, 2009

Mr. Gary L. Kelterborn  
CMS Land  
1945 West Parnall Road  
Jackson, Michigan 49201

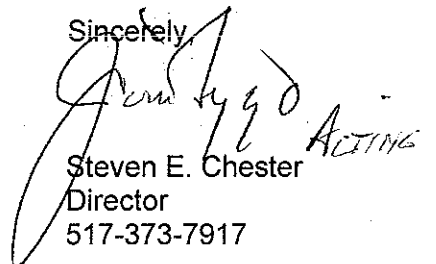
Dear Mr. Kelterborn:

Thank you for your letter of December 3, 2009, concerning your appeal pursuant to Rule 716 (17) of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, as amended, and the Technical Impracticability Demonstration submittal which accompanied your letter.

We understand that you previously submitted the Technical Impracticability (TI) Demonstration to the United States Environmental Protection Agency (U.S. EPA), Region 5, for review. As we have discussed, the U.S. EPA will review the TI Demonstration and provide their analysis of the TI Demonstration to the Department of Environmental Quality (DEQ). As the U.S. EPA review proceeds, CMS may receive comments from the U.S. EPA and the DEQ seeking revisions to the TI Demonstration. We expect that CMS will work proactively with the U.S. EPA and the DEQ in response to comments. The respective parties agreed the TI Demonstration and the U.S. EPA's analysis would not be a formal TI waiver pursuant to a Comprehensive Environmental Response, Compensation and Liability Act, 1980 PL 96-510, action, but rather, would be used as a technical basis for the DEQ to evaluate your appeal of the Groundwater Surface Water Interface criteria for mercury at the Bay Harbor site, a.k.a. the Little Traverse Bay CKD release site. We anticipate a decision regarding your appeal to occur concurrently with the U.S. EPA approval of the Remedial Investigation/Alternatives Evaluation for the site.

If you have any further questions regarding this matter, please contact Mr. Robert Wagner, Acting Assistant Division Chief, Remediation and Redevelopment Division, at 517-373-9838, or you may contact me.

Sincerely,



Steven E. Chester  
Director  
517-373-7917

cc: Mr. Rick Karl, U.S. EPA  
Mr. Kevin Adler, U.S. EPA  
Mr. Ralph Dollhopf, U.S. EPA  
Mr. Jim Sygo, Deputy Director, DEQ  
Ms. JoAnn Merrick, Chief of Staff, DEQ  
Mr. Robert Wagner, DEQ