



GLORIETA GEOSCIENCE, INC.

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February 6, 2018

via e-mail to potts.mark@epa.gov

Mark Potts, Chief
Waste Enforcement Branch
U.S. Environmental Protection Agency Region 6
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

**RE: GANDY MARLEY, INC. WASTE ACCEPTANCE FROM WESTERN REFINING
CORRECTIVE ACTIONS**

Dear Mr. Potts:

On behalf of Gandy Marley, Inc. (GMI), Glorieta Geoscience, Inc. (GGI) submits this letter report documenting actions taken and to be taken in response to your November 6, 2018 letter concerning GMI's acceptance of waste from Western Refining Southwest's Gallup Refinery (Western). Your letter requested that GMI: 1) document the events leading up to and including acceptance of the waste; 2) reevaluate the Waste Acceptance Criteria (WAC); and 3) develop a more robust system of determining the regulatory status of waste contemplated for acceptance at the GMI facility.

Documentation of Events and Root Cause

GGI reviewed all extant records related to the 39 roll-off bins in question, including the self-disclosure from Western's parent company, Andeavor. GGI also interviewed GMI employees and discussed the issue with New Mexico Oil Conservation Division (NMOCD) and your staff. Andeavor's account of the events that led to the acceptance of the waste at the GMI facility largely conforms with the information obtained by GGI. The waste was generated from the dissolved gas flotation portion of Western's wastewater treatment system. As the generator, Western used process knowledge to warrant on its NMOCD Form C-138 that the waste was non-hazardous and eligible for acceptance at the GMI facility, despite the fact that such wastes were in fact listed wastes (F038). GMI relies on Form C-138 to document new and existing waste streams accepted for disposal at the GMI facility. GMI acknowledges that facilities not duly permitted to accept hazardous waste are prohibited from doing so, and other than acceptance of the subject waste, has strictly adhered to this prohibition. However, process knowledge is wholly the responsibility of hazardous waste generators under state and federal law, and GMI had no reason to doubt Western's process knowledge. In sum, GMI followed its OCD permit, its own procedures, and had no way of knowing that Western intentionally or unintentionally proffered incorrect process knowledge as acceptable.

Western also submitted laboratory analysis of a (presumably) representative sample of the waste taken on June 4, 2013 to GMI, and included "RCRA Hazardous Waste Analysis" on Form C-138 as an additional basis for its determination that the waste was non-hazardous. The laboratory results were summarized in Box 4 of the Form C-138. No hazardous constituents were detected at concentrations that would exceed the criteria for hazardous wastes. However, Western submitted additional laboratory results on or after the aforementioned results were submitted. These results were of another (presumably) representative sample of the waste collected on June 7, 2013. These results were not summarized or

mentioned on the Form C-138, and contained a report of benzene concentrations above 5 mg/L. Notwithstanding the fact Western should have known the waste was listed, these results alone should have caused Western to find a different disposal pathway (i.e., a permitted hazardous waste disposal facility). Because GMI relied on the Form C-138 and the results of the June 4 sample, it did not review the results of the June 7 sample. It remains unclear why Western collected the second sample, why it did not disclose the results on the Form C-138 (it was dated after the date of the second laboratory report), why it continued to warrant the non-hazardous nature of the waste to GMI, and why it did not seek an alternate disposal pathway (e.g., permitted hazardous waste disposal facility).

GMI believes that the root cause of the disposal was Western's failure to accurately assess the process that generated the waste and apply the F038 waste code. Notwithstanding this failure, Western compounded the mistake by failing to update the Form C-138, which would have caused Western to withdraw the form and find an alternative disposal pathway for the waste. GMI has reviewed its records, and believes acceptance of this waste stream is likely the only time inappropriately characterized wastes may have been disposed of at the GMI facility.

Reevaluation of Waste Acceptance Criteria

The Waste Acceptance Criteria for the GMI facility are codified in the "Waste Acceptance Criteria" heading on page 5 of GMI's NMOCD-issued permit (Permit NM-01-0019). We believe the WAC fully and completely sets out the standards that must be met for acceptance of waste at the GMI facility. GMI nevertheless will propose to NMOCD the following additional provision that will help prevent generators from being able to submit a Form C-138 that does not reflect the actual process knowledge, sample analysis, or regulatory determination made therefrom.

- "The facility shall not accept wastes from a refinery or a pipeline regulated by the state or federal Department of Transportation unless an expert third party designated or approved by GMI has reviewed documentation of the waste stream and determined that the waste stream meets the Waste Acceptance Criteria. Such determination must be renewed annually."

Further Enhancements to Determination of Regulatory Status of Wastes

To further ensure only RCRA-exempt or non-hazardous RCRA-nonexempt wastes are accepted at the GMI facility, GMI will retain the services of third-party experts to develop and conduct annual training for employees on waste determination, process knowledge, permit requirements, and the regulatory framework under which GMI operates. GMI staff will train and adhere to the attached decision tree to ensure all waste accepted at GMI meets the WAC. Finally, GMI will no longer accept waste from Western or its parent and subsidiary companies under any circumstances.

The actions outlined in this letter will serve to ensure situations like those caused by Western's actions and inaction do not occur again, and that GMI can confirm the veracity of information contained on Form C-138 from refinery and DOT-regulated pipeline generators. GMI is committed to protection of human health and the environment, and adhering to the terms of its NMOCD permit and its requirements under state and federal law. We appreciate the opportunity to work with you and your staff, and the NMOCD, to carry out the commitments made in this letter.

M. Potts
GMI Response
February 6, 2019
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Please contact me at 505.699.2136 or at james@glorietageo.com if you have any questions.

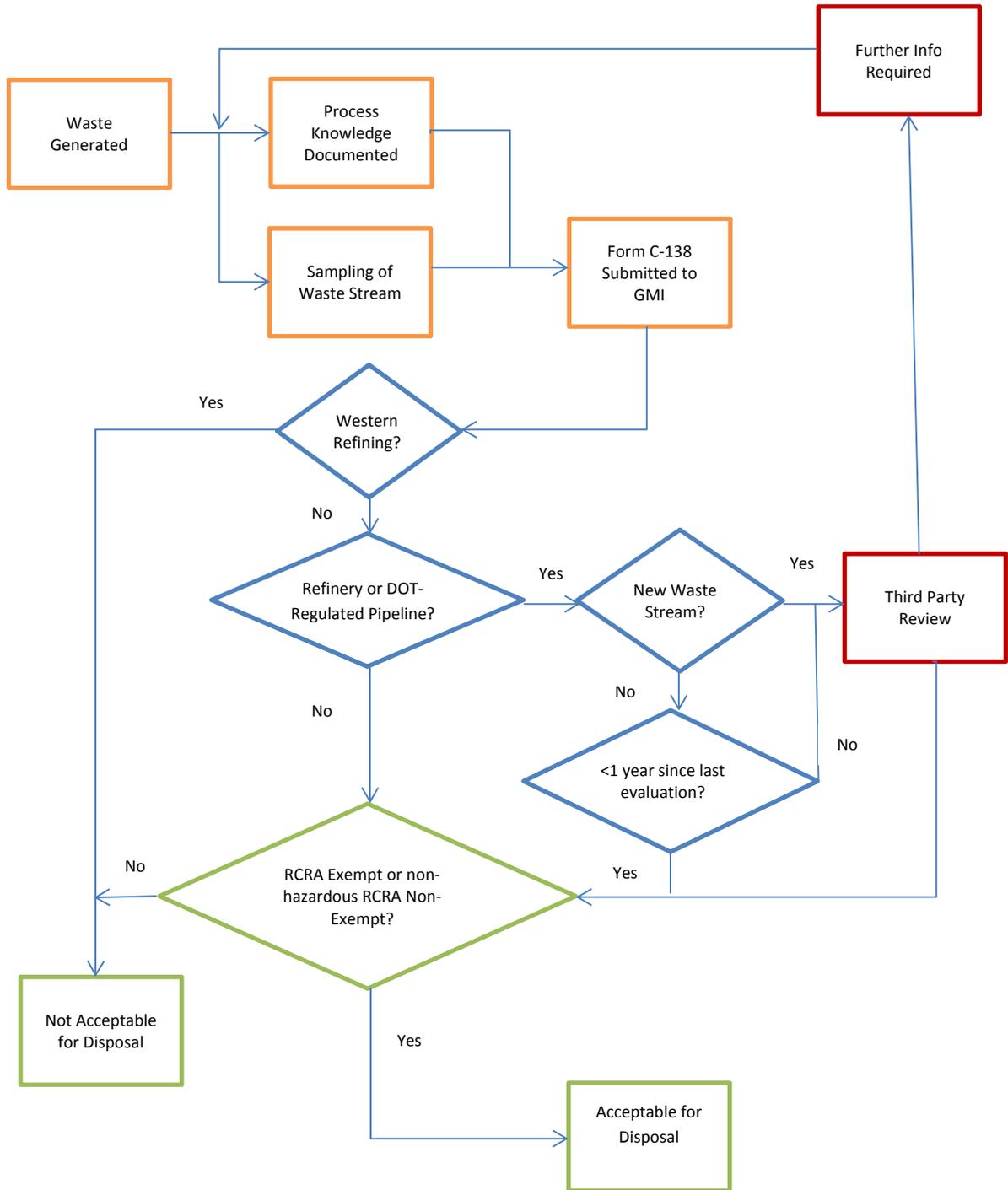
Sincerely,

A handwritten signature in black ink, appearing to read "James P. Bearzi". The signature is fluid and cursive, with a prominent initial "J" and "B".

James P. Bearzi
Senior Regulatory and Environmental Specialist
Glorieta Geoscience, Inc.

Cc: L. Gandy, GMI
C. Chavez, OCD
J. Kieling, NMED HWB

**GMI CAPROCK FACILITY
PROPOSED WASTE ACCEPTANCE FLOW CHART
February 6, 2019**



Color Code

GMI Decision
or Action

GMI or Third Part
Expert Decision or
Action

Generator
Decision or
Action

Third Party
Expert Decision
or Action