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Metropolitan Water Reclamation District of Greater Chicago

USER CHARGE AND TECHNICAL SERVICES SECTION

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THOMAS C. GRANATO, Ph.D.

Director of Monitoring and Research Department

October 28, 2011

Mr. Robert Bult
President
Marigold, Inc.
8815 South Dobson Avenue
Chicago, IL 60619

Dear Mr. Bult:

Subject: Appeal No. 11D-030 – Revision of the 2010 Net User Charge in the Amount of \$42,204.57, for the Facility Located at 8815 South Dobson Avenue, Chicago, IL

The Metropolitan Water Reclamation District of Greater Chicago (District) makes reference to the September 23, 2011, meeting regarding the subject appeal. In attendance at the meeting representing Marigold, Inc. (Marigold) was your consultant, Mr. Arthur Sherman of Eagle Environmental Co., (Eagle). Ms. Patricia Kalinowski, Messrs. Edwin Ignacio, John Sobczyk, Michael Goldrich and DeRon Howard of my staff represented the District.

Marigold filed its 2010 User Charge Annual Certified Statement (RD-925) on January 28, 2011, based on sampling programs conducted by Eagle at Outlet No. 4A during the periods of April 12 through April 16, 2010, May 17 through May 20, 2010, August 11 through August 17, 2010, October 11 through October 15, 2010, and November 15 through November 19, 2010. From these sampling programs, Marigold reported the flow-weighted average (FWA) concentrations of 3,161 mg/L for biochemical oxygen demand (BOD) and 220 mg/L for suspended solids (SS) at Outlet No. 4A. These FWA concentrations were applied to a reported 2010 total annual flow volume of 4,181,335 gallons. This volume was based on 2010 water bills and meter readings obtained by Marigold from one main incoming water meter and one, privately owned water-to-product (WTP) magnetic flowmeter (Serial No. S05 1341). Based on the above, Marigold reported a 2010 Net User Charge (NUC) of \$37,149.53. Marigold reported a total payment of \$27,420.38 towards its 2010 NUC on the RD-925.

During the District's review of Marigold's 2010 RD-925, it was determined that Marigold did not have an approved proposal for the utilization of a magnetic flowmeter for establishing in-plant water losses (IPWL). The District makes reference to its letter dated June 27, 2006 (copy enclosed), which notified Marigold of a deficient proposal. In the letter, the District instructed Marigold to resubmit the proposal due to Marigold's failure to fulfill the requirements for utilizing a magnetic flowmeter for User Charge reporting purposes. Therefore, the District recomputed Marigold's 2010 total annual volume as 6,246,445 gallons based on Marigold's meter readings submitted for 2010 and prorated to 365 days.

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The District conducted sampling programs at Marigold from February 19 through February 25, 2010, April 19 through April 25, 2010, August 2 through August 8, 2010, and November 3 through November 9, 2010, at Outlet No. 4A. As is District policy, Marigold's and the District's sampling data were merged. The District makes reference to its letter dated June 4, 2010 (copy enclosed), which acknowledged Marigold's request to isolate Marigold's and the District's sampling data from April 2010 on the 2010 RD-925. Although Marigold did not isolate any of its data on the RD-925, the District determined that all April 2010 sampling data warranted being isolated and merged on a FWA basis and applied to the total volume for those days. This resulted in FWA concentrations of 14,713 mg/L for BOD and 386 mg/L for SS which were applied to a volume of 121,516 gallons for the April 2010 sampling programs. The remaining sampling data from Marigold (2,039 mg/L for BOD and 129 mg/L for SS) and the District (2,532 mg/L for BOD and 86 mg/L for SS) were merged on a FWA basis resulting in concentrations of 2,214 mg/L for BOD and 113 mg/L for SS. The District applied these concentrations to Marigold's remaining recomputed 2010 annual flow volume of 6,124,929 gallons. This resulted in a revised NUC of \$42,204.57. A Notification of Revision for the 2010 RD-925 was issued to Marigold on May 9, 2011 (copy enclosed).

In accordance with Section 9a(1)(a) of the District's User Charge Ordinance (Ordinance), Marigold appealed the revised NUC in its letter dated August 1, 2011. The District scheduled an appeal meeting for September 23, 2011. A current Certification of Completeness of User Charge Data form signed by Ms. Margaret Warnke, Chief Financial Officer for Marigold, was presented by Mr. Sherman at the appeal meeting on your behalf.

During the appeal meeting, Marigold presented the following:

Mr. Sherman stated that Marigold was under the assumption that a proposal was approved by the District as Marigold had been filing its 2007, 2008 and 2009 RD-925s using the same meter (Serial No. S05 1341) and had been accepted by the District. Mr. Sherman also commented that perhaps the District's records were deficient and missing correspondence that approved Marigold's methodology. Furthermore, Mr. Sherman presented an unsigned calibration document indicating that the above meter is within an acceptable range of accuracy and that the losses recorded by the meter should be accepted by the District. In addition, Mr. Sherman stated that Marigold has submitted a new IPWL proposal.

The District's response to Marigold's contention is as follows:

The matter of past submittals incorrectly filed by the User with unapproved water losses, and the claim that having been accepted by the District in prior years as a cause to accept a subsequent incorrect filing currently under appeal, was discussed at the appeal meeting in response to Mr. Sherman's contention. Mr. Sherman was advised that the District has the authority to rebill a User after reevaluation of past submittals as provided under Section 7e of the Ordinance. Under the terms of this Section, if any deficiencies are determined upon a reevaluation, the User is obligated to pay additional monies owed for User Charges. The District proposed this reevaluation of the RD-925s submitted for 2007, 2008 and 2009, as a means to adjust for the unapproved water losses addressed in the current appeal. However, the District determined that the appeal would address the water losses in contention for 2010 and future reporting years. Furthermore, while the District assured Mr. Sherman that its records are accurate and up-to-date,

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the District stated that the User is responsible for maintaining its own records for proof of any approved proposal by the District for the User.

For the purpose of this appeal only, the District allowed Marigold until September 30, 2011, to fulfill the missing requirements of the Criteria Applicable to the Utilization of Privately-Owned Magnetic Flowmeters for User Charge Reporting Purposes (copy enclosed). The following requirements were required to be met by September 30, 2011, for consideration in this appeal:

- The meter calibration document submitted by Marigold for the meter (Serial No. S05 1341) must be signed and stamped by the registered professional engineer from Don Johns Engineering.
- The specifications of the meter must be submitted along with the certification that the meter is appropriate for its designated use.
- A strip chart recorder must be attached to the meter.
- On September 26, 2011, Mr. Sherman was informed by Mr. Goldrich that a non-resettable totalizer must be attached to the meter.

On September 29, 2011, the following documentation was received by the District from Mr. Sherman on Marigold's behalf:

- The meter calibration document was signed by the engineer but not stamped, although a certificate from the Bureau of Weights and Measures was provided.
- Documentation regarding the specifications and installation of the meter was received.
- Mr. Sherman stated in his September 29, 2011, letter that a strip chart recorder and totalizer are available for the meter, however, Marigold is awaiting approval from the District to install both.

The District has reviewed Marigold's documentation and has determined that Marigold has not met the requirements for the magnetic flowmeter (Serial No. S05 1341) as established at the appeal meeting. The meter calibration document was not stamped by a professional engineer registered in the state of Illinois; internal documentation from Don Johns Engineering indicates the meter is not installed within the proper specifications (meter was installed six inches short of the required 15-inch length on the inlet side); a certification from the meter manufacturer was not received that indicates the meter is appropriate for its designated use; a strip chart recorder has not been installed; and a non-resettable totalizer has not been installed.

Please be advised that Marigold must submit a revised IPWL proposal within 30 days from receipt of this letter for consideration for the 2011 User Charge reporting year and thereafter. Should Marigold fail to submit an acceptable IPWL proposal as required herein, Marigold will be required to report its

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User Charge liability for the 2011 reporting year and subsequent years, based on total metered intake, in accordance with Appendix A of the Ordinance.

It is the determination of this office that Marigold's 2010 NUC was accurately calculated using all relevant and acceptable data and will stand. The calculation of the NUC is presented in the enclosed Table 1. This closes the subject appeal. The District's Finance Department will issue a revised invoice under separate cover.

In accordance with Section 9b of the Ordinance, if the User does not concur with the determination of this office, it may petition the District's Board of Commissioners (Board) for a hearing. Any such request for a hearing by the Board shall be made within 365 days after receipt of this letter.

If you have any questions regarding this matter, please contact Mr. Sobczyk, Associate Environmental Specialist, at (312) 751-3021.

Very truly yours,



Thomas C. Granato, Ph.D.
Director
Monitoring and Research

TCG:JS:op

Enclosures (District Letters 7/27/06, 6/4/10, 5/9/11, Magnetic Flowmeter Criteria and Table 1)

Certified No. 7008 1830 0004 0301 9976

cc w/encl: Mr. Sherman (via fax)

Ms. Kalinowski

Mr. Ignacio

Mr. Sobczyk

Mr. Goldrich

Mr. Howard

U26141/#1064

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.	<p>A. Signature <input checked="" type="checkbox"/> <i>Racheal Szary</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Racheal Szary</i> C. Date of Delivery <i>11-3-11</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p><i>Mr. Robert Buft</i> <i>President</i> <i>Marigold, Inc.</i> <i>8815 South Dobson Avenue</i> <i>Chicago, IL 60619</i></p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service)</p>	<p><i>7008 1830 0004 0301 9976</i> <i>JS.</i></p>