

Risk and Liability Management at Kansas City Southern de México



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October 2014

Railroad Environmental Conference



Kansas City Southern de México

- June 24, 1997 KCSM received 50-year concession of Line 1 of Ferrocarriles Nacionales de México (FNM)



- Approx. 2660 miles of track
- Connects Mexico City with:
 - US border at Laredo
 - Mexican ports of Lázaro Cárdenas and Veracruz

Concession Agreement

- FNM responsible for prior contamination
- KCSM responsible for their contamination
- Agreement only included general remediation obligation no characterization procedures nor remediation goals



The Risk

- At end of concession, may be complicated to distinguish pre- and post-concession contamination



Risk Management

- Pre-concession site inspections
- Pre-concession PROFEPA (Attorney General for Environmental Protection) audits
- KCSM eliminated facilities
- Historical aerial photos
- Environmental capital improvements
- Post-concession site inspections
- Post-concession site characterizations and remediation
- Monitoring of regulations
- Meetings with PROFEPA

Pre-Concession Site Inspections

- Fall 1996, FNM provided separate train for each bidder
- Not only environmental but operations
- One week to traverse the entire system
- From environmental standpoint, inspections provided a good orientation of each facility and allowed identification of major issues



Pre-Concession PROFEPA Audits

- PROFEPA has developed an audit specification and has certified consultant auditors
- Prior to concession, FNM had audits conducted at 13 largest facilities
- KCSM hired counsel to obtain audits through equivalent of Freedom of Information Act

REGISTRO DE DEFICIENCIAS

EMPRESA AUDITADA: FERROCARRILES NAC. DE MÉXICO No. AUDITORIA: AA-EF-94/03
ÁREA RESPONSABLE: TALLER SALTILLO No. DEFICIENCIA: SYS-04
EMPRESA AUDITORA: IDOM-TEMA FECHA: OCTUBRE 1994

DEFICIENCIA: (Indicar evidencia objetiva y requerimientos no cumplidos):
CARENCIA DE UN PROGRAMA DE REMEDIACION DE SUELO AFECTADO POR DERRAMES EN EL TALLER Y EN LA ZONA DE ABASTOS.

REGLAMENTACION CONTRAVENIDA: LEY GENERAL DEL EQUILIBRIO ECOLOGICO Y LA PROTECCION AL AMBIENTE ART. 134 FRACC. II Y 136

ACCIONES CORRECTIVAS O PREVENTIVAS RECOMENDADAS:
ES NECESARIO ELABORAR E IMPLEMENTAR UN PROYECTO PARA LA REMEDIACION DEL SUELO IMPACTADO POR DERRAMES DE HIDROCARBUROS EN LAS ZONAS AFECTADAS POR DERRAMES.
FECHA DE CUMPLIMIENTO: 6 meses

OBSERVACIONES:

FECHA, NOMBRE Y FIRMA DEL RESPONSABLE DE LA EMPRESA

FECHA, NOMBRE Y FIRMA DEL AUDITOR QUE EMITE LA DEFICIENCIA
OCTUBRE 1994 [REDACTED]

FECHA, NOMBRE Y FIRMA DEL AUDITOR QUE CIERRA LA DEFICIENCIA
OCTUBRE 1994 [REDACTED]

Eliminated Facilities

KCSM:

- Excluded some highly contaminated facilities from concession
- Never operated on some highly contaminated facilities





Historical Aerial Photos

- Obtained historical aerial photos from INEGI (Mexican Institute of Geography and Statistics)



KCSM Capital Improvements

- Fuel tanks
- Track pans
- Above-ground fuel lines
- Tank car unloading areas

Post-Concession Site Inspections

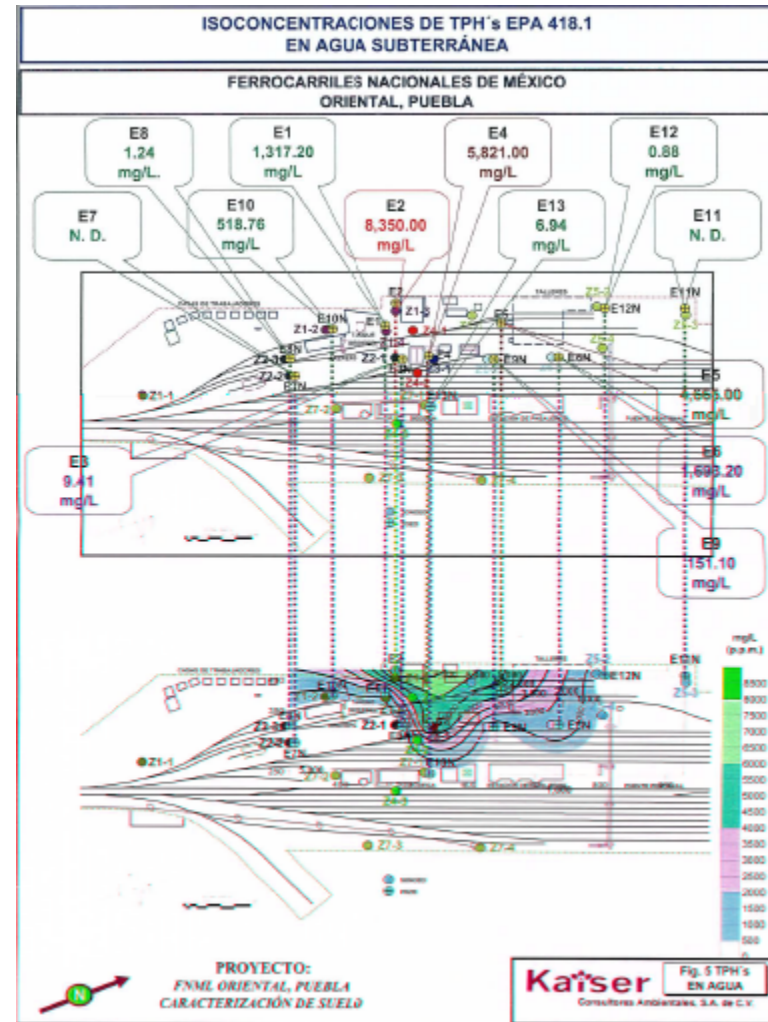


Soil and groundwater findings classified as follows:

1. Documented pre-existing conditions
2. Undocumented pre-existing conditions
3. Pre-existing conditions possibly aggravated by KCSM
4. New conditions

Site Characterization & Remediation

- FNM continuing to conduct site characterization and remediation
- KCSM reviews reports and spot checks in field



Mexican Regulations

- Concession establishes that FNM responsible for meeting current regulations—not necessarily the regulations at the time of the concession
- General Law on Ecological Equilibrium was promulgated January 1988 and modified: 1996, 2000, 2001, 2003, 2005, 2006, 2007, 2008, 2010, 2011, 2012, 2013 and 2014
- General Law on the Prevention and Management of Wastes was promulgated in 2003 and modified: 2006, 2007, 2012, 2013 and 2014

Meetings with PROFEPA

- KCSM obtaining Certificate of Clean Industry for facilities
- KCSM regularly meets with PROFEPA to discuss findings of investigations
- PROFEPA is:
 - Decentralized – KCSM must deal with PROFEPA in each of the 13 States they operate in
 - Political – PRI won elections from PAN in 2012
 - As a result, new PROFEPA deputies in each of the 13 States at beginning of 2012



Project Challenges

- Prolonged investigation and remediation process by FNM
- On-going operations by KCSM
- Evolving Mexican regulations
- Changing regulatory authorities

Conclusions

- FNM generally doing a good job in the investigation and remediation
- Important that KCSM assures all pre-existing conditions are:
 - Identified
 - Adequately investigated
 - Completely remediated





Imagine the result

