



March 14, 2005

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Hazardous Waste Section

Mr. Robert Glaser  
Facility Management Branch  
Hazardous Waste Section  
Division of Waste Management  
North Carolina Department of  
Environment and Natural Resources  
1646 Mail Service Center  
Raleigh, North Carolina 27699-1646

**Re: Completion of Post-Closure Care and  
Removal of Deed Restrictions  
NEPTCO Inc., Lenoir, North Carolina  
NCD 095 465 035**

Dear Mr. Glaser:

NEPTCO, Inc is writing to the N.C. Department of Environment and Natural Resources (NCDENR) to request removal of deed restrictions and termination of post-closure care at the NEPTCO facility located in Lenoir, N.C. NEPTCO is making these requests for several reasons. First, as described in detail below, NEPTCO has attained all requirements of federal and state law and all requirements of its agreement with NCDENR relating to its facility. Second, because this matter is still technically "open," NEPTCO currently has in place 30 extraction and monitoring wells on its property. These wells, despite being covered, secured, and protected in accordance with post closure requirements, serve as a conduit to subsurface soils and groundwater, as long as they remain open. Allowing NEPTCO to permanently close these wells will remove a significant potential pathway and help insure that future impacts to soil and groundwater do not occur.

You will recall that NEPTCO entered into an Administrative Order on Consent (NCD095465035 Docket # 90-171) on March 18, 1991 which addressed response actions for hazardous wastes (methyl ethyl ketone (MEK) and toluene) released to soils and groundwater below the former spill containment vessel and former chemical mixing room. The requests made in this letter are warranted because NEPTCO has complied with all the requirements of the Order and relevant requirements of 40 C.F.R. part 265, including without limitation the requirements of 40 C.F.R. § 265.119, and achieved soil and groundwater cleanup objectives mandated by NCDENR. The attainment of cleanup objectives was documented by soil and groundwater assessment activities as reported to and approved by NCDENR. The remainder of this letter provides a summary of NEPTCO's responses that have lead to completion of closure activities and our specific requests related to removal of deed restrictions and termination of post-closure care.



## **Removal of Deed Restrictions**

As described in greater detail below, NEPTCO has removed hazardous waste and hazardous waste residues from its property under an approved post-closure plan. Thus, pursuant to 40 C.F.R. § 265.119(c), NEPTCO herein requests that the Chief of the Hazardous Waste Section authorize the removal of the restrictions set forth in the Notice in Deed recorded with respect to the NEPTCO property in the Caldwell County Register of Deeds on June 28, 1993. Such notice is recorded at Book 1089, Page 1794 in the Caldwell County Register of Deeds.

## **Clean-Up Objectives**

Revised soil and groundwater final cleanup objectives were established by NCDENR in its letter dated April 10, 2001 (R. Roberts), attached. These revised clean-up objectives are in conformance with the concept of an unrestricted land use standard as indicated in the August 2004 NCDENR "Guidelines for Assessment and Cleanup".

## **Remediation Activities**

NEPTCO remediated soils and groundwater by installing a groundwater and soil vapor extraction system and operating it from July 1991 until November 1997. Quarterly and semi-annual groundwater monitoring results indicated that the site groundwater cleanup objectives had been met in 1997. The site Amended Post Closure Plan (Plan) dated September 23, 1999 indicated (paragraph 11.1) that once groundwater cleanup objectives had been achieved, the extraction system would be shut down for a three year evaluation period to demonstrate that groundwater cleanup objectives are being maintained. At the end of the three year evaluation period the Plan required (paragraph 11.3) that a closure assessment of groundwater and soils be conducted to demonstrate that NCDENR mandated groundwater and soil cleanup objectives had been met and maintained.

## **Assessment Activities**

### Groundwater

The groundwater assessment event was conducted in August 2001 and the results reported to NCDENR in the Groundwater Assessment Report dated April 26, 2002. The analytical data from the groundwater assessment event documented that all wells were in compliance with groundwater clean up objectives. The summary table (Table 1) of groundwater analytical results from the Groundwater Assessment Report is attached.

NCDENR responded to the Groundwater Assessment Report in its June 26, 2003 letter (R. Roberts), attached, stating that "The results of the August 2001 groundwater sampling event showed the presence of MEK (although below clean-up objectives) ..." and "based upon the last three years of groundwater monitoring data and assuming no additional contaminated soils are found above the clean-up objectives during the coming closure sampling event, the groundwater assessment at the NEPTCO facility is considered complete".



## Soil

A soil assessment sampling event was conducted on October 27, 2003 and the results reported to NCDENR in the Soil Assessment Report dated January 24, 2004. The results of that sampling event document that the soil clean-up objectives have been achieved at all sample locations and depths and no additional areas of soil contamination were present. The summary table (Table 5) of soil analytical results from the Soil Assessment Report is attached.

NCDENR responded to the Soil Assessment Report in its December 14, 2004 letter (R. Glaser), attached, stating that "...the Hazardous Waste Section concurs with the conclusion included in Section 8 of the report that indicates that the contaminated soils associated with the hazardous waste management unit have been remediated to levels below the clean-up objectives established for the site."

## **RCRA Facility Assessment Report**

NCDENR Final RCRA Facility Assessment Report (RFA) evaluated the need for RCRA corrective action at the NEPTCO Lenoir, N.C. facility. The RFA identified 6 Solid Waste Management Units (SWMU) at the facility. The Former Spill Containment Vessel and Former Chemical Mixing Room (SWMU #1) and the Former MEK and Toluene Underground Storage Tanks (SWMU #2) were recommended to have confirmatory sampling. The other four SWMUs were dismissed in the RFA as requiring "No Further Action."

Confirmatory soil sampling was completed at SWMU #1 with the soil assessment sampling event and presentation in the Soil Assessment Report, as discussed above. That report and NCDENR response concluded that all samples collected and analyzed at SWMU #1 were below NCDENR cleanup objectives.

The RFA recommended confirmatory sampling to determine if a release had occurred from the former Toluene and MEK Underground Storage Tanks (SWMU #2). The tanks had been removed in May 1990 under NCDENR oversight. Soil samples were collected from beneath the tanks after removal of the USTs and analyzed for toluene and MEK. The soil analytical results were presented to NCDENR in the Underground Storage Tank and Leak Response Report (1990). Closure of the USTs was completed in accordance with the approved closure plan and certification of closure provided to NCDENR on June 30, 1993. NCDENR inspected the tank closure on July 19, 1993 and found the facility to be in compliance with the approved closure plan and accepted NEPTCO's UST closure certification (J.Rhodes, August 3, 1993). Data indicating the location of the tanks, associated piping, and the sampling results were also forwarded to NCDENR in letters from EnviroGroup Limited dated February 1, 2002 and January 22, 2003. NCDENR responded to EnviroGroup's letters in its July 22, 2003 (R.Roberts) letter (attached) stating "The analytical results revealed no impacts to soil exceeding the HWS's levels of concern." The letter also stated that "NEPTCO is no longer required to conduct further soil investigative activities in the former UST area..."



### Specific Requests

We thus respectfully make the following requests of NCDENR:

- 1) Removal of the Deed Restrictions on the Lenoir, N.C. facility. Deed restrictions were filed with the Caldwell County Registrar of Deeds on June 28, 1993. The removal of these restrictions may be accomplished by filing of the attached Termination of Notice In Deed and Deed Release, to be executed by the Hazardous Waste Section Chief pursuant to 40 C.F.R. § 265.119(c). The Termination of Notice In Deed and Deed Release would cancel the 1993 filing. We have achieved the specified clean-up objectives achieving a risk based clean closure based on an unrestricted land use. No continuing land use controls are thus necessary. Alternatively, it would be acceptable to NEPTCO to remove the deed restrictions using authority granted pursuant to N.C.G.S. § 143B-279.10.
- 2) Termination of Post-Closure Care per 40 CFR 265.117 and 40 CFR 265.118. We hereby request that the length of the site post closure care period for the former spill containment vessel be modified to end on March 31, 2005. This modification would include a release from all further inspection, maintenance, and monitoring requirements and a termination of the requirement for financial assurance. This modification request is based on our demonstration of achievement of the clean-up objectives established for this unit by your office.
- 3) Formal Close Out of Administrative Order on Consent Docket # 90-171 dated March 18, 1991. All of the requirements of the order have been complied with and the order no longer serves a purpose. Moreover, closing out the order is necessary for removal of the deed restrictions on the property, since the deed restrictions currently in place expressly reference the order.
- 4) Termination of Interim Status. We have successfully completed the post-closure care of the hazardous waste management unit (former spill containment vessel). NEPTCO has satisfied all obligations under sections 3004 (u) and (v) of RCRA because there is no need for site wide corrective action. Interim status is no longer necessary. Termination of interim status can be accomplished per 40 CFR 270.73, possibly utilizing a denial of a permit per 40 CFR 124.6 (b), or through other procedures that your office may have developed. There are no ongoing hazardous waste treatment, storage, or disposal activities at our facility that would require a RCRA permit. We now operate as a large quantity hazardous waste generator and are not seeking a hazardous waste permit.

We believe that through the demonstrated successful completion of the remedy that protection of human health and the environment has been achieved at our facility by attaining and maintaining NCDENR cleanup objectives and further, that no additional activity or controls are necessary to ensure continued protection. NCDENR formal determination that NEPTCO has successfully completed all aspects of this project is appropriate based on previous data, reports, and results of assessment activities submitted to NCDENR as documented above.



NEPTCO is anxious to receive your determination so that we may permanently close approximately 30 groundwater extraction and monitor wells on the facility where manufacturing and material handling operations are on going. The closure of these wells will remove a significant potential pathway and help insure that future impacts to soil and groundwater do not occur. Due to the importance of these requests to NEPTCO, we plan to contact you within the next ten days to discuss your review of this letter and where we go from here. Please contact David Lloyd in the meantime if you have questions.

Respectfully,

NEPTCO Incorporated

Lois B. Kilsey  
VP Operations

LBK:mjl

Attachments

cc: D. Lloyd, NEPTCO Inc.  
R. Pond, NEPTCO Inc.  
M. Canrobert, NEPTCO Inc.  
K. Scott, EnviroGroup  
D. Franchina, Esquire  
E. Cannon, HWS Chief  
K. Pathan, HWS