



North Carolina Department of Environment and Natural Resources

Dexter R. Matthews, Director

Division of Waste Management

Michael F. Easley, Governor

William G. Ross Jr., Secretary

September 13, 2007

Ms. Nicole Cory
Flint Hills Resources, LP
P.O. Box 2917
Wichita, Kansas 67201

Re: Requirements for Contaminant Assessment and Cleanup
Former Koch North Terminal – Paraxylene Facility
Wilmington, New Hanover County, NC
Site I.D. No. NCD000772046; Former APS Incident Nos. 205, 3261 and 15475

Dear Ms. Cory:

It is our understanding that you have recently or previously been performing contaminant assessment and/or cleanup activities at the site identified above as directed by the Division of Water Quality's Aquifer Protection Section (APS). As part of an organizational change within the Department of Environment and Natural Resources, regulatory jurisdiction for oversight of this site has been transferred to the Superfund Section's Inactive Hazardous Sites Branch (Branch) within the Division of Waste Management. The oversight of the assessment and cleanup of all historical non-permitted releases of non-petroleum contaminants has been consolidated into one agency and now resides with the Division of Waste Management's Superfund Section. Additional information regarding the reorganization, along with information on the Branch's voluntary cleanup program, may be found on the Branch's web site at <http://wastenot.enr.state.nc/sfhome/ihsbrnch.htm>.

Note that often people are confused by the name of the Inactive Hazardous Sites Response Act and the Branch. "Inactive Hazardous Sites" by definition are any areas where hazardous substances have come to be located and would include active and inactive facilities and a variety of property types. The term "inactive" refers to the fact that cleanup was inactive at large numbers of sites at the time of program enactment.

Actions Required At This Time

The enclosed questionnaire must be completed and returned by October 20, 2007, to continue to receive state approval for work completed. However, if the site has contaminated potable wells in the area, if potable wells are located within 1000 feet of the property boundary, or if other higher risk conditions exist, you should respond and provide the checklist immediately, but no later than the above specified date.

Future Assessment and Cleanup Activities

All correspondence regarding cleanup of non-petroleum contaminant releases at non-permitted sites should no longer be sent to the APS and should be forwarded to the Branch instead.

Sites with groundwater contamination have been subject to multiple cleanup authorities. Such sites are subject to the requirements contained in 15A NCAC 2L, Classifications and Water Quality Standards Applicable to the Groundwaters of North Carolina, as well as the requirements of the Inactive Hazardous Sites Response Act (IHSRA).

Groundwater cleanup levels are the same under 15A NCAC 2L and the IHSRA. The IHSRA, however, has requirements for other contaminated media as well. Implementing a groundwater corrective action plan under APS supervision has never relieved a party from obligations to address other contaminated media under the IHSRA. As with the federal Superfund/CERCLA program, IHSRA was established to address all media contaminated with hazardous substances. Cleanup under the IHSRA is recognized by the US EPA as consistent with the requirements of CERCLA, thereby removing concerns for cleanup actions being required by the US EPA.

For consistency, and to address all contaminated media at the site with one approval process, all site assessment and cleanup at sites with hazardous substance releases will proceed through IHSRA authority. Consolidating all the contaminant remediation authorities serves to make cleanup approval comprehensive (so you do not have to work with multiple agencies in resolving the various contaminated media at your site).

The Branch is working to make the transition of site cleanups under 15A NCAC 2L authority to IHSRA authority as smooth as possible. We have compared the APS's last published soil to groundwater cleanup levels to IHSRA direct contact soil levels for unrestricted use. In general, if the contaminant cleanup action was in compliance with North Carolina groundwater standards and the APS's last published soil to groundwater cleanup levels, your cleanup action should have met Branch soil cleanup levels (for both protection of groundwater and direct contact for unrestricted use) under the IHSRA for the contaminants and areas investigated. If there are areas of concern, contaminated media, or suspect contaminants that were not investigated in the previous work, those items would need to be addressed.

Sites with volunteers willing to continue with assessment or cleanup will be addressed as follows:

Hazardous Substance Cleanup (and mixed hazardous substance and pollutants):

The Branch has a privatized oversight arm of the voluntary cleanup program known as the Registered Environmental Consultant (REC) program. Based on the responses provided on the questionnaire (degree of hazard and public interest in the site), the Branch will determine whether a staff person or an REC will perform the oversight and approval of your assessment and cleanup action. Having one or more of the conditions identified on the questionnaire does not necessarily preclude the site for qualifying for an REC-directed cleanup action.

Under the REC program, the volunteer would hire an environmental consulting firm that has been approved by the state as meeting certain qualifications to implement a cleanup and certify that the work is being performed in compliance with regulations. In other words, the REC's certifications of compliance are in place of direct oversight by the Branch. Details of the REC program can be found at <http://www.wastenotnc.org/sfhome/recprog.htm>.

Cleanup At Sites With Non-Hazardous Substance Contamination Only:

If your site contamination is non-hazardous substance pollutants only, the Branch will work with you under 15A NCAC 2L authority rather than Inactive Hazardous Sites Act authority to address the site. Branch staff will directly oversee the work.

Failure to Respond

If we do not receive a completed questionnaire, the Branch will take further action to prioritize the site. At the time the site becomes a priority, if the responsible parties do not enter the Branch's voluntary cleanup program, the Branch may issue an order compelling assessment or cleanup or take other enforcement action. In addition, if you choose not to conduct a state-approved cleanup at this time, the site may be referred to the USEPA to be screened for action under the federal Superfund Program.

If you have any questions specific to the REC Program, please contact the REC Program Manager, Kim Caulk, at (919) 508-8451. For all other questions please contact me at (910) 796-7215.

Sincerely,



Genevieve M. Henderson, P.G.
Hydrogeological Technician II
Inactive Hazardous Sites Branch
Superfund Section
Division of Waste Management

Enclosure

Cc: IHSB - WiRO Files
Elizabeth Page, Reiss Remediation, 12550 Trinity Blvd., Euless, TX 76040
Jeff Becken, Catlin Engineers and Scientists, 220 Old Dairy Rd., Wilmington, NC 28405
Daniel P. Shine, Sunoco, Inc., Blue Ball and Post Rd., P.O. Box 1135, Marcus Hook, PA 19061
Catherine C. Warner, GES, One North Commerce Center, 5293 Capital Blvd., Raleigh, NC 27616
Layton Bedsole, NCSPA, 2202 Burnett Blvd., Wilmington, North Carolina 28401

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Division of Waste Management, Superfund Section
Inactive Hazardous Sites Branch
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OCT 4 2007

BY:

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