



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

October 15, 2008

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

Re: **ADDITIONAL NOTICE OF REGULATORY REQUIREMENTS FOR CONTAMINANT ASSESSMENT AND CLEANUP**

Koch North Terminal – Paraxylene Facility (formerly)
Wilmington, New Hanover County, NC
NCD000772046; Former APS Incident Nos. 205, 3261 and 15475

Dear Ms. Cory:

Our office previously sent you a letter notifying you of steps that you need to take to receive state approval for any ongoing contaminant assessment or cleanup you may be conducting. The letter also notified you of an organizational change within the North Carolina Department of Environment and Natural Resources (“DENR”), whereby regulatory oversight of your site has been transferred to the Superfund Section’s Inactive Hazardous Sites Branch (“Branch”) within the Division of Waste Management. We are providing you with this additional Notice designed to clarify both your responsibilities under law and the information regarding the reorganization.

Based on information currently available to the Branch, we understand that your site has been contaminated by one or more hazardous substances. The Inactive Hazardous Sites Response Act (“IHSRA”), codified under N.C. Gen. Stat. § 130A-310, et seq., applies to your site. In addition, 15A NCAC 2L, Groundwater Classifications and Standards, applies to this site.

The change in oversight responsibility is designed to achieve consistency by addressing all contaminated media at the site with one approval process. The Aquifer Protection Section dealt with primarily enforcing 15A NCAC 2L, which requires that all contaminants in groundwater, or in soils to the extent that they could contaminate groundwater, be addressed. The cleanup requirements under IHSRA are broader. Under IHSRA all contaminated media must be addressed. In addition to requiring cleanup for the protection of groundwater and surface water, IHSRA requires that soils and sediment be remediated to meet direct contact levels protective of public health and ecological receptors. Consolidating all the contaminant remediation authorities will provide for one comprehensive cleanup, eliminating the need to work with multiple Divisions in resolving the various contaminated media at the site.

Additional information regarding the reorganization may be found on the Branch's web site located at <http://wastenotnc.org/sfhome/ihsbrnch.htm>.

I. ACTIONS REQUIRED AT THIS TIME:

Take Initial Abatement Actions Required Under 15A NCAC 2L.

If you have not already done so, you must take the initial abatement actions required under 15A NCAC 2L. Pursuant to 15A NCAC 2L .0106(b), any person conducting or controlling an activity which results in the discharge of a waste or hazardous substance to the groundwaters of the State, or in proximity thereto, shall take immediate action to terminate and control the discharge, and mitigate any hazards resulting from exposure to the pollutants. Pursuant to 15A NCAC 2L .0106(c), if groundwater standards have been exceeded, you must take immediate action to eliminate the source or sources of contamination. Beyond initial abatement actions, all assessment and remediation will be done through the IHSRA.

II. FUTURE ASSESSMENT AND CLEANUP ACTIVITIES:

All correspondence regarding this site should be sent to the Branch. Future assessment and cleanup activities (activities conducted after the initial abatement steps required in 15A NCAC 2L) may be conducted through the Voluntary Cleanup Program (discussed below) or pursuant to an Order issued under N.C. Gen. Stat. § 130A-310.3. In addition, if you choose not to conduct a cleanup through the Voluntary Cleanup Program, the site may be referred to the United States Environmental Protection Agency ("EPA"). If so referred, EPA will screen the site for Federal enforcement action under the Federal Superfund Program, established under the Comprehensive Environmental Responsibility, Compensation, and Liability Act ("CERCLA").

Please note, you are not expected to repeat work. However, if there are known or suspected areas of concern, contaminated media, or contaminants that were not investigated in the previous work, those items would need to be addressed. This would include any media, areas or contaminants to which there is evidence (such as, but not limited to, allegations or indications of spills, visual observations, field instrument readings, laboratory data, and chemical odors) of releases of contaminants or materials likely to contain contaminants. You and your consultant should evaluate whether there are additional items that are required to be addressed.

III. VOLUNTARY CLEANUP PROGRAM:

Under the IHSRA, persons who move forward to assess and remediate contamination, without being compelled to do so through formal legal action filed against them, are called "volunteers." To participate in the voluntary cleanup program, you will be required to enter into an administrative agreement with the Branch. The voluntary cleanup will proceed through the Registered Environmental Consultant Program:

Agreement to Conduct Assessment and Remediation Through the Registered Environmental Consultant Program.

The Branch has a privatized oversight arm of the voluntary cleanup program known as the Registered Environmental Consultant ("REC") program. Under the REC program, the volunteer hires an environmental consulting firm, which the State has approved as having met 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>. If you have any questions specific to the REC Program, including how to participate, please contact the REC Program Manager, Kim Caulk, at (919) 508-8451.

IV. FAILURE TO RESPOND:

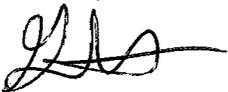
If you choose not to enter the REC program, the Branch will take further action to prioritize the site. Failure to take the initial abatement steps required in 15A NCAC 2L may result in the assessment of a civil penalty against you. In addition, the Branch may seek an injunction compelling compliance with the initial abatement steps required in 15A NCAC 2L. For future work beyond the initial abatement steps required pursuant to 15A NCAC 2L, a unilateral Order may be issued pursuant to § 130A-310.3 to compel assessment and cleanup.

V. ADDITIONAL INFORMATION REGARDING THE IHSRA AND THE BRANCH:

People are often confused by the name of the Inactive Hazardous Sites Response Act and the Branch. By definition, "Inactive Hazardous Sites" 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" simply refers to the fact that cleanup was inactive at large numbers of sites at the time of program enactment. Additional information about the Branch may be found at <http://www.wastenotnc.org/sfhome/ihsbrnch.htm>.

If you have additional questions about the requirements that apply to your site, please contact me at (910) 796-7215.

Sincerely,

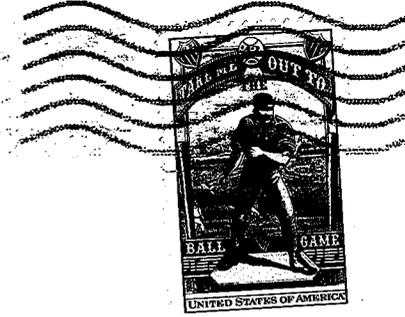


Genevieve M. Henderson, P.G.
Hydrogeologist II
Inactive Hazardous Sites Branch
Superfund Section
Division of Waste Management

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
Todd Walton, North Carolina State Ports Authority, P.O. Box 9002, Wilmington, NC 28402

North Carolina Dept. of Environment & Natural Resources
Wilmington Regional Office - Division of Waste Management
Cardinal Drive Extension
Wilmington, NC 28405

COASTAL CAROLINA AREA
NC 283 3 L
16 OCT 2008 PM



10/27/08
Resend to:

23 S. 13th St, Ste 201
Richmond, VA
23219

Catherine C. Warner
GES
One North Commerce Center
5293 Capital E
Raleigh, NC 2

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