



North Carolina Department of Environment and Natural Resources
Division of Waste Management

Pat McCrory
Governor

Dexter R. Matthews
Director

John E. Skvarla, III
Secretary

February 25, 2014

Mr. Terry Fox
NCDOT GeoEnvironmental
1589 Mail Service Center
Raleigh NC 27699-1589
(via email)

Re: **Response to “Soil Sampling and Excavation Report” (12/31/2013)**
FCX Chemicals (Frmr)
Salisbury, Rowan County, NC
Site ID No. NONCD0002920

Dear Mr. Fox:

Thank you for submitting the Soil Sampling and Excavation Report for the above subject site (Site). The Inactive Hazardous Sites Branch (IHSB) is a contaminant remediation program for unpermitted, non-petroleum, non-underground storage tank (UST) sites contaminated with CERCLA listed hazardous substances and exceedances of the state’s 15A NCAC 2L groundwater quality standards (2L) which must be cleaned up under state authority. The primary authority for the IHSB is derived from N.C.G.S. 130A-310 et. seq., also known as the North Carolina Inactive Hazardous Sites Response Act of 1987 (IHSRA). These laws call for the cleanup of contaminated media (groundwater, soils, surface water and so forth). This “site” is now listed in the IHSB’s inventory as “FCX Chemicals (FRMR) NONCD0002920” due to the detections of hazardous substances the North Carolina Department of Transportation (NCDOT) discovered when performing subsurface investigations for your roadway project. Under the IHSRA, the “site” is defined as anywhere that the originally released hazardous substances have migrated, so the roadway project area is part of the “site”. I have requested information from previous property owners/operators to try to identify responsible parties for the contamination. At this time it appears that this site will likely be “orphaned” in our program due to a lack of clear information about who released the hazardous substances and due to bankruptcy of the original operator of the facility. Without viable dischargers, owners and those in control of the contamination may be liable for cleanup.

At this site, our understanding is that the Hazardous Waste Section (HWS) is only regulating the proper transportation, storage and disposal of any excavated soils that subsequently become hazardous wastes due to their excavation and removal from the site. If the contamination is due to a release of a hazardous substances or chemical product and not a discharged hazardous waste, the soil is not a hazardous waste unless the soil is excavated (excavation “generates” the waste) and it contains certain chemical properties. Robin Proctor is addressing the sampling requirements for excavated materials which will be disposed of in order to meet the HWS’s regulatory requirements (transportation, treatment, storage and disposal of contaminated soils at your project). Any “no further action” you receive from the HWS is for the appropriate handling and disposal of

hazardous wastes generated by the excavation activities NCDOT is performing as part of their roadway project. Essentially, when contaminated soils are excavated from a site, they can become hazardous wastes and are regulated under the HWS's Compliance Section.

The Soil Sampling and Excavation report indicates that dieldrin levels in the NCDOT's current planned "Right of Way" for the Klumac Road realignment are above the IHSB's Preliminary Residential Health Based Soil Remediation Goals (PSRG), 0.03 mg/kg and are above Protection of Groundwater requirements (POG), 0.00081 mg/kg. The IHSB has completed review of the Report and since there are no known direct residential risk factors, we have determined that the Site can be cleaned up through the Registered Environmental Consultant (REC) Program without direct oversight by Branch Staff. Only the sites with the highest risks receive direct oversight by state staff.

If NCDOT would like to voluntarily clean up their property and receive approval, it has the option of entering into an agreement for NCDOT's portion of the site and conducting the cleanup under our Registered Environmental Consultant Program. The REC Program is our privatized oversight program for lower priority cases. Alternatively, NCDOT can elect to independently clean up the site without IHSB oversight. We would recommend NCDOT follow IHSB guidance available on line. If NCDOT wants to conduct independent assessment and remediation, you would need to make certain that all in-situ contaminated soils have been assessed and remediated to levels below both our preliminary health-based remedial goals and our protection of groundwater criteria goals. The IHSB guidance provides other optional methods than the conservative table values for demonstrating protection of groundwater criteria. For unrestricted use, contaminated site soils must be remediated to the preliminary residential health-based goals regardless of whether the site is an industrial property. Use of the preliminary industrial health-based goals as the target remediation level is only to be selected for sites that are proposing restricted use closure of the site. Restricted use closure can only be used for sites that have performed an appropriate assessment, have an administrative agreement in place with the IHSB and have proposed the restricted use goals as part of a remedial action plan which will utilize land use restrictions. Protection of groundwater criteria for soils must be met regardless of whether restricted use or unrestricted use health-based goals for soils will be utilized. When NCDOT performs independent assessment and remediation outside of the IHSB's voluntary cleanup program, it needs to meet the unrestricted use goals and protection of groundwater criteria for soils. After completing those activities, NCDOT can make a request for determination of no further action status for that portion of the site under their control. More information on No Further Action Review requests and a certification of completion form can be found at:

<http://portal.ncdenr.org/web/wm/sf/ihs/ra/nfa>.

To conduct an approved cleanup, NCDOT must enter into an REC-Administrative Agreement (REC-AA) with the Branch. The procedures for entering into an REC-AA are attached. If you have any questions regarding these procedures or the REC Program, please contact the REC Program Manager, Kim Caulk, at (919) 707-8350 or visit the REC Program website at <http://portal.ncdenr.org/web/wm/sf/ihs/recprogram>.

If you have questions about the requirements that apply to your site, please contact me at (704) 663-1699, ext. 2182 or trudy.beverly@ncdenr.gov.

Sincerely,



Trudy Beverly, LG - Trudy.Beverly@ncdenr.gov
Hydrogeologist, Western Region
NCDENR - Division of Waste Management
Superfund Section - Inactive Hazardous Sites Branch

Mooresville Regional Office
610 East Center Ave., Suite 301
Mooresville, NC 28115

Enclosure: REC-AA Procedures

cc: Michael Branson, Solutions-IES, Inc., 1101 Nowell Road, Raleigh, NC 27607
Robin Proctor, NCDENR Hazardous Waste Section (via email)

Procedures for Obtaining a REC Administrative Agreement

To obtain a Registered Environmental Consultant (REC)-Administrative Agreement (AA), remediating parties (RPs) and RECs should use the following procedures:

1. Contact Kim Caulk, preferably by e-mail at Kim.Caulk@NCDENR.gov, and provide the following information for the site:
 - Site name, street address/location, city, and county;
 - Exact name of remediator;
 - Name, title, telephone number, e-mail address, & mailing address of the highest ranking official of the remediating party having day-to-day responsibility for the performance of the remedial response action;
 - Name, title, telephone number, e-mail address, & mailing address of any other contact person(s) and the proposed REC (if known) for the remedial response action;
 - Current property owner of the site.
2. Using the information above, a draft REC-AA will be prepared by the Branch and forwarded, preferably by e-mail, to the RP and any other specified representatives for review. The draft electronic version of the AA will be maintained by the Branch.
3. After the RP and/or REC confirms the information is satisfactory, the AA will be finalized by the Branch and an original, hardcopy of the final document will be mailed to the RP for signature. The RP should then mail the signed **original**, final AA to the REC for signature. The document should then be returned by mail to the Branch for execution. The Branch will forward a photocopy of the AA to the RP and REC following execution.
4. Before the AA can be executed, the following requirements must be completed:
 - A 30-day public notice for the proposed AA must be performed by the Branch in accordance with 130A-310.9(b). Note that this includes sites already undergoing groundwater remediation and previously under the oversight of the Division of Water Quality. To complete the required 30-day public notice, the proposed REC and/or the Remediating Party will need to submit, preferably by e-mail, a site location map (typically a tax map or parcel map) and the mailing addresses for each of the adjacent surrounding property owners. The reference/source of the submitted information should be included;
 - Pursuant to 15A NCAC 13C .0307(c), to participate in the REC Program, payment of a financial assurance fee must be received by the Branch. The fee for entry of the site into the REC Program is \$2500. Checks should be made payable to NC Division of Waste Management and referenced to the REC Trust Fund. There will be a similar fee each year until remediation at the site is complete. The annual administration fee, which is to help offset the costs of the Division's audits of remedial actions, is based on the number of sites in the REC Program and in recent years has varied from approx. \$1800 to \$2500.

The required public notice can begin while the AA is reviewed/finalized and the fees are processed.

Questions regarding these procedures and the REC Program should be directed to Kim Caulk at (919) 707-8350 or Kim.Caulk@NCDENR.gov.