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

Pat McCrory
Governor

Dexter R. Matthews
Director

John E. Skvarla, III
Secretary

March 1, 2013

CERTIFIED MAIL

Mrs. Beatrice Rector
2190 Cedar Trail
Morganton, NC 28655

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

Antioch Food Mart
2940 Highway 18
Morganton, Burke County, NC

Dear Mrs. Rector:

We received the Phase II – Limited Site Investigation from an Underground Storage Tank Section referral, which reports that your site has been contaminated by one or more hazardous substances. Depending on the contaminants involved and whether the contaminants have impacted or may impact groundwater quality, you will be required to assess and cleanup the contamination under one or more cleanup authorities. Regulatory oversight for the assessment and cleanup under all applicable authorities will be provided by the Division of Waste Management through its Superfund Section, Inactive Hazardous Sites Branch ("Branch").

Based on information provided to date, the Inactive Hazardous Sites Response Act ("IHSRA"), codified under N.C. Gen. Stat. § 130A-310, et seq., applies to your site. In addition, initial immediate actions may be required under 15A NCAC 2L, Groundwater Classifications and Standards.

I. ACTIONS REQUIRED AT THIS TIME:

Complete the Site Cleanup Questionnaire.
To comply with the requirements of State law, a Site Cleanup Questionnaire, available on the website noted at the end of this letter, must be completed and returned to this office. The information you provide will be reviewed along with other information to prioritize the site, so please make certain that the information you provide is complete and accurate. Please note that your failure to inform the Branch of any nearby potable wells or other high risk conditions may adversely affect the Branch's ability to identify this site as a higher-risk site.

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").

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 or under direct oversight by the Branch Staff, as discussed below:

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. 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. Please note that 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 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://portal.ncdenr.org/web/wm/sf/ihs/recprogram. If you have any questions specific to the REC Program, including how to participate, please contact the REC Program Manager, Kim Caulk, at (919) 707-8350.

Agreement to Conduct Assessment and Remediation Under State Oversight.
If the Branch determines that the site should be assessed and remediated pursuant to direct State oversight, it will not be eligible for a REC-directed cleanup. Rather, the remedial action will receive direct oversight by Branch staff.

IV. FAILURE TO RESPOND:

If we do not receive a completed questionnaire, the Branch will take further action to prioritize the site without your input. 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 N.C. Gen. Stat. § 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://portal.ncdenr.org/web/wm/sf/ihshome.

Submit completed questionnaire to: Trudy Beverly
Inactive Hazardous Sites Branch
610 East Center Ave., Suite 301
Mooresville, NC 28115

All documents submitted to the Division in relation to this work must be provided in both paper and in an electronic format designated by the Division (see the Inactive Hazardous Sites Branch website located at http://portal.ncdenr.org/web/wm/sf/ihshome for current specifications on electronic document submittal).

If you have additional questions about the requirements that apply to your site, please contact me at (704) 663-1699.

Sincerely,

Trudy M. Beverly

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

Cc: Mr. Andrew Bailey, Carolina First Bank/Mercantile Bank, 2100 South Bridge Parkway, Suite 650, Birmingham, AL 35209
Nathan Burnside, AEI Consultants, 6065 Roswell Road, Suite 940, Atlanta, GA 30328

NCDENR

NORTH CAROLINA DEPARTMENT OF
ENVIRONMENT AND NATURAL RESOURCES
MOORESVILLE REGIONAL OFFICE
610 EAST CENTER AVENUE, SUITE 301
MOORESVILLE NC 28115

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RECEIVED

APR 22 2013

NCDENR MRO IHSB

UNITED STATES POSTAGE
PITNEY BOWES
02 1P $ 000.46⁰
0003181127 APR 10 2013
MAILED FROM ZIP CODE 28115

RTS

Mr. Andrew Bailey
Carolina First Bank/ Mercantile Bank
[illegible], Suite 650

A C S
☐ INSUFFICIENT ADDRESS
☐ ATTEMPTED NOT KNOWN
☐ NO SUCH NUMBER/ STREET
☐ NOT DELIVERABLE AS ADDRESSED - UNABLE TO FORWARD
X ☐ OTHER

RTS
RETURN TO SENDER

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