



Department of Environmental Protection

Jeb Bush
Governor

Northwest District
160 Governmental Center
Pensacola, Florida 32502

Colleen Castille
Secretary

June 8, 2006

**CERTIFIED, RETURN
RECEIPT REQUESTED**

Ms. Linda Dunwoody
Operations Manager
Onyx Environmental Services, L.L.C.
342 Marpan Lane
Tallahassee, Florida 32305

Subject: Site Rehabilitation Completion Order
Onyx Environmental Services, L.L.C.
342 Marpan Lane
Tallahassee, Leon County
September 2005 Discovery of Stored Materials

Dear Ms. Dunwoody:

This is in response to the February 10, 2006, Soil Sampling and Analysis Report for Mercury conducted by Environmental Consulting & Technology, Inc., for the subject site.

Upon review of the report, we find that we concur with your consultant's conclusion that mercury and lead concentrations were below the respective cleanup target levels in the areas of the recyclable material storage trailers. Furthermore, your consultant's recommendation for no additional assessment activities is within reason.

The February report is hereby incorporated by reference in this Site Rehabilitation Completion Order (Order). Therefore, you are released from any further obligation to conduct site rehabilitation at the site for contamination associated with the September 2005 discovery of containers of mercury containing materials in storage in excess of the 180 day storage limit and containers of materials stored in excess of the permitted capacity of the above permitted facility. However, in the event concentrations of contaminants of concern increase above the levels approved in this Order, or if a subsequent discharge occurs at the site, the Florida Department of Environmental Protection (Department) may require site rehabilitation to reduce concentrations of contaminants of concern to levels allowed by applicable Florida Administrative Code.

"More Protection, Less Process"

Legal Issues

The Department's Order shall become final unless a timely petition for an administrative proceeding (hearing) is filed under Sections 120.569 and 120.57, Florida Statutes (F.S.), within 21 days of receipt of this Order. The procedures for petitioning for a hearing are set forth below.

Persons affected by this Order have the following options:

If you choose to accept the above decision by the Department, you do not have to do anything. This Order is final and effective as of the date on the top of the first page of this Order.

If you disagree with the decision, you may do one of the following:

- (1) File a petition for administrative hearing with the Department's Office of General Counsel within 21 days of receipt of this Order; or
- (2) File a request for an extension of time to file a petition for hearing with the Department's Office of General Counsel within 21 days of receipt of this Order. Such a request should be made if you wish to meet with the Department in an attempt to informally resolve any disputes without first filing a petition for hearing.

Please be advised that mediation of this decision pursuant to Section 120.573, F.S., is not available.

How to Request an Extension of Time to File a Petition for Hearing

For good cause shown, pursuant to Rule 62-110.106 (4), F.A.C., the Department may grant a request for an extension of time to file a petition for hearing. Such a request must be filed (received) in the Department's Office of General Counsel at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this Order. Petitioner, if different from addressee, shall mail a copy of the request to addressee at the time of filing. Timely filing a request for an extension of time tolls the time period within which a petition for administrative hearing must be made.

How to File a Petition for Administrative Hearing

A person whose substantial interests are affected by this Order may petition for an administrative hearing under Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000,

within 21 days of receipt of this Order. Petitioner, if different from addressee, shall mail a copy of the request to addressee at the time of filing. Failure to file a petition within this time period shall waive the right of anyone who may request an administrative hearing under Sections 120.569 and 120.57, F.S.

Pursuant to Section 120.54(5) (b) 4.a., F.S., and Rule 28-106.201, F.A.C., a petition for administrative hearing shall contain the following information:

- (a) The name, address, and telephone number of each petitioner, the name, address, and telephone number of the petitioner's representative, if any, the site owner's name and address, if different from the petitioner, the FDEP facility number, and the name and address of the facility;
- (b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- (c) An explanation of how each petitioner's substantial interests are or will be affected by the Department's action or proposed action;
- (d) A statement of the material facts disputed by the petitioner or a statement that there are no disputed facts;
- (e) A statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the Department's action or proposed action;
- (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the Department's action or proposed action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department's action or proposed action.

This Order is final and effective as of the date on the top of the first page of this Order. Timely filing a petition for administrative hearing postpones the date this Order takes effect until the Department issues either a final order pursuant to an administrative hearing or an order responding to supplemental information provided pursuant to meetings with the Department.

Judicial Review

Any party to this Order has the right to seek judicial review of it under Section 120.68, F.S., by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within 30 days after this Order is filed with the clerk of the Department (see below).

If you have any questions or need further information, please contact Jim Byer, at (850) 595-8360, extension 1253, or by electronic mail at jim.byer@dep.state.fl.us. Questions regarding legal issues should be referred to the Department's Office of General Counsel at (850) 245-2242. Contact with any of the above does not constitute a petition for administrative hearing or request for an extension of time to file a petition for administrative hearing.

Sincerely,



W. Richard Fancher
District Director

WRF:cml

FILED, on this date, pursuant to §120.52 Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.



Clerk

June 8, 2006

Date