



Florida Department of Environmental Protection

Northwest District
160 Governmental Center, Suite 308
Pensacola, Florida 32502-5794

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

April 24, 2009

Sent via e-mail to:

jwier@McKenzieTankLines.com

Mr. Joe Wier
McKenzie Tank Lines, Inc.
Post Office Box 1200
Tallahassee, Florida 32302

Subject: Site Rehabilitation Completion Order
McKenzie Tank Lines East Drum Accumulation Area
2778 West Tharpe Street
Tallahassee, Leon County, Florida
FDEP Facility ID# FLD980848758
Discharge Date: February 28, 2007 (USEPA/FDEP HW inspection date)

Dear Mr. Wier:

The Northwest District has reviewed the September 17, 2007 Interim Source Removal Report (ISRR), the June 4, 2008 No Further Action Proposal (NFAP) and the October 22, 2008 Response to Correspondence – Analytical Results Report prepared by Geovac Environmental Services Inc., for this site. Documentation submitted with these reports confirm that criteria set forth in Rule 62-780.680(1), Florida Administrative Code (F.A.C.), have been met. The reports and the NFAP are hereby incorporated by reference into this Site Rehabilitation Completion Order (Order).

Therefore, you are released from any further obligation to conduct site rehabilitation at the East Drum Accumulation Area site for non-petroleum product contamination associated with the discharges referenced above, except as set forth below:

In the event concentrations of contaminants of concern increase above the levels approved in this Order, or if a subsequent discharge of non-petroleum or petroleum product occurs at the site, the Florida Department of Environmental Protection (Department) may require site rehabilitation to reduce concentrations of contaminants of concern to the levels approved in the Order or otherwise allowed by Chapter 62-780, F.A.C.

Legal Issues

The Department's Order shall become final unless a timely petition for an administrative 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 an administrative hearing are set forth below.

Persons affected by this Order have the following options:

- (A) If you choose to accept the Department's decision regarding the TCA 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.
- (B) If you choose to challenge the decision, you may do the following:
 - (1) File a request for an extension of time to file a petition for an administrative hearing with the Department's Agency Clerk in the 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 an administrative hearing; or
 - (2) File a petition for an administrative hearing with the Department's Agency Clerk in the Office of General Counsel within 21 days of receipt of this Order.

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 an Administrative Hearing

For good cause shown, pursuant to subsection 62-110.106(4), F.A.C., the Department may grant a request for an extension of time to file a petition for an administrative hearing. Such a request must be filed (received) by the Department's Agency Clerk in the 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 McKenzie Tank Lines, Inc., shall mail a copy of the request to the Florida McKenzie Tank Lines, Inc., at the time of filing. Timely filing a request for an extension of time tolls the time period within which a petition for an administrative hearing must be made.

How to File a Petition for an 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) by the Department's Agency Clerk in the 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 McKenzie Tank Lines, Inc., shall mail a copy of the petition to McKenzie Tank Lines, Inc., 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 subsection 120.569(2), F.S. and rule 28-106.201, F.A.C., a petition for an 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 facility 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 when and how 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 disputed issues of material fact, 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 an 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 to the Department pursuant to meetings with the Department.

Mr. Joe Wier
McKenzie Tank Lines East Drum Accumulation Area SRCO
FDEP Facility # FLD 980848758
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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 Department's Agency Clerk in the Office of General Counsel at 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 Department's clerk (see below).

The FDEP Facility Number for this site is FLD980848758. Please use this identification on all future correspondence with the Department.

Any questions regarding the Department's review of your SCRC and Confirmation Soil Sampling Reports should be directed to Julie Ann Hardy, Project Manager, at (850) 595-8360 extension 1211. 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 an administrative hearing or a request for an extension of time to file a petition for an administrative hearing.

Sincerely,



W. Richard Fancher
District Director
Northwest District

WRF;jh

cc: John M. Elrod, P.G., Geovac Inc., geovac@mckenzie-tank.com

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



Clerk

April 24, 2009

Date