



State of Florida  
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee	
To: _____	Location: _____
To: _____	Location: _____
To: _____	Location: _____
From: _____	Date: _____

# Interoffice Memorandum

TO: Larry Morgan  
Office of General Counsel

THROUGH: Saadi Motamedi, E Sup II, SEFD (SM)

FROM: Ginny Hurley, ES I, SEFD (GPH)

DATE: 3-14-91

SUBJECT: Case Deactivation

CASE NAME: Linda Feickert

COUNTY: Broward

PROGRAM: HW

OGC CASE NO. 90-1101

Case Deactivation Request

All provisions of the subject Consent Order/Notice of Violation have been met; therefore, it is requested the case be closed.

Attorney Frankie Fokes

Amount of assessment if any: \$ 2305.00

Paragraph No.	Date Complete	Comments
<u>Short CO</u>	<u>1-21-91</u>	<u>Penalty Paid in Full</u>
<u>Short CO</u>	<u>1-14-91</u>	<u>CO signed &amp; executed</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

FREDERIC J. OR LINDA G. FEICKERT

RT. 3, BOX 607 918-772-2341  
HULBERT, OK 74441

1817

PAY TO THE  
ORDER OF

1-21 19 91 86-1203/1031  
The Dept of Environmental Regulation \$ 350<sup>00</sup>  
Three hundred fifty and no/100 DOLLARS



**THE American Bank**

P.O. BOX 568  
Wagoner Oklahoma 74477

MEMO

Final Pmt Case 90-1101 Linda G Feickert

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL REGULATION

ENFORCEMENT TELEPHONE LOG

CASE NAME: Linda Feickert DATE: 1-4-91 TIME: 4:30 pm  
CONTACT: Linda F. OF: \_\_\_\_\_ CALLED /  
PHONE: \_\_\_\_\_ WAS CALLED

\*\*\*\*\* returned my call \*\*\*\*\*

DISCUSSION:

Linda said she mailed the signed CO of promissary note on or about 12-24-90. She will sent check by the deadline.

PREPARED BY: G. Hurley

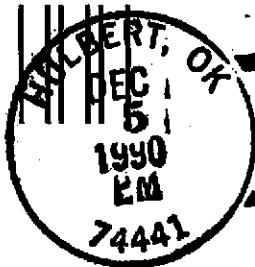
UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

**SENDER INSTRUCTIONS**

Print your name, address and ZIP Code in the space below.

- Complete Items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.



PENALTY FOR PRIVATE  
USE, \$300

RETURN  
TO

Print Sender's name, address, and ZIP Code in the space below.

**RECEIVED**

DEC 12 1990

*Ms. Ginny Hurley*

Dept. of Environmental Reg  
West Palm Beach

**STATE OF FLORIDA**

**DEPARTMENT OF ENVIRONMENTAL REGULATION**  
1900 SOUTH CONGRESS AVE., SUITE A  
WEST PALM BEACH, FL 33406



**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. (Extra charge)      2. ☐ Restricted Delivery (Extra charge)

3. Article Addressed to:

Ms. Linda Feickert  
Rte 3 Box 607  
Hulbert, OK 74441

4. Article Number

P 391 100 839

Type of Service:

- ☐ Registered      ☐ Insured  
☒ Certified      ☐ COD  
☐ Express Mail      ☐ Return Receipt for Merchandise

Always obtain signature of addressee or agent and DATE DELIVERED.

5. Signature - Addressee

X 

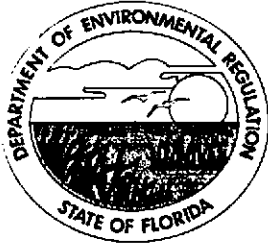
6. Signature - Agent

X

7. Date of Delivery

12-5-90

8. Addressee's Address (ONLY if requested and fee paid)



## Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406 • 407-964-9668

Bob Martinez, Governor

Dale Twachtmann, Secretary

John Shearer, Assistant Secretary  
Scott Benyon, Deputy Assistant Secretary

NOV 3 0 1990

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Linda Feickert  
Rt. 3 Box 607  
Hulbert, OK 74441

Re: Proposed Final Agency Action (Consent Order) in Case of DER vs. Linda Feickert; O.G.C. Case No. 90-1101.

Dear Ms. Feickert:

The purpose of this letter is to complete the resolution of the violation previously identified by the Department of Environmental Regulation ("DER") in the Notice of Violation (NOV) dated September 11, 1990, a copy of which is attached. The corrective actions required to bring your facility into compliance have been performed. However, you must pay to the Department the amount of \$350.00 to complete the settlement of the violations described in the attached Notice of Violation, along with \$1955.00 to reimburse the DER's costs, for a total of \$2305.00. This payment must be made by certified check or money order to Florida Department of Environmental Regulation and mailed to the Southeast Florida District Office, 1900 South Congress Avenue, Suite A, West Palm Beach, FL 33406, within 20 days of your signing this letter.

Your signing of this letter constitutes your agreement to the terms of the letter. After this letter has been countersigned by the DER and filed with the Clerk of the DER, the letter shall constitute a consent order, which is final agency action of the DER, the terms and conditions of which may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, Florida Statutes. Failure to comply with the terms of this letter once signed by you shall constitute a violation of Section 403.162(1)(b), Florida Statutes.

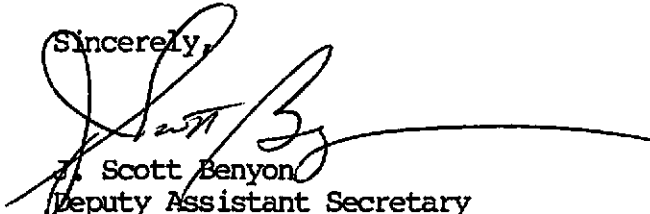
The DER by countersigning this letter, waives its right to seek judicial imposition of damages, or civil penalties for the violations described above. By signing this letter, you waive your rights as described on the back of this document in the Notice of Rights. If you do not sign and return this letter to the Department at the Southeast District address given above within twenty days of its receipt, it will be assumed that you are not interested in settling this matter according to the terms described herein, and this matter will be referred to the Department's



Ms. Linda Feickert  
Page 2 of 3  
O.G.C. Case No. 90-1101

Office of General Counsel with a recommendation that formal enforcement action be taken against you.

Sincerely,



J. Scott Benyon  
Deputy Assistant Secretary

For: Linda Feickert

By: \_\_\_\_\_

Ms. Linda Feickert  
Rt. 3 Box 607  
Hulbert, OK 74441

For the DER:

By: \_\_\_\_\_

J. Scott Benyon, Deputy Assistant Secretary  
Southeast Florida District  
1900 South Congress Avenue, Suite A  
West Palm Beach, FL 33406  
Telephone: 407/433-2650

ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 1990, in  
West Palm Beach, Florida.

JSB/gh

Attachments

Copies furnished to:

Office of General Counsel, DER, Tallahassee  
Broward County Environmental Quality Control Board  
File, Reporting Coordinator  
West Palm Beach DER Files

## NOTICE OF RIGHTS

Persons whose substantial interests are affected by the proposed agency action described in this document have a right, pursuant to Section 120.57, F.S., to petition for an administrative determination (hearing) on the proposed action. The Petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the (persons named) above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, F.S.

The Petition shall contain the following information: (a) The name, address, and telephone number of each petitioner; the Department's identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject agency (proposed) action have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.576, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed.

\* \* \* \* \*

A party who is adversely affected by this Final Order is entitled to Judicial Review pursuant to Section 120.68, F.S. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Appeal with the Agency Clerk of the Division of Administrative Hearings and a second copy, accompanied by filing fees prescribed by law, with the District court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The Notice of Appeal must be filed within 30 days of rendition of the Order to be reviewed.

Promissory Note

Date:

Linda Feickert, an Oklahoma citizen ("Respondent"), promises to pay to the Florida Department of Environmental Regulation, an agency of the State of Florida ("Department"), the sum of \$2305.00 for penalty settlement as set forth below:

- 1) A check for \$1955.00 to cover costs and expenses incurred by the Department was received from the Respondent on October 15, 1990. The check is being held pending the entry to the Consent Order (attached). Once the Consent Order has been signed and executed by the Department, the check will be applied to cover costs and expenses of the Department.
- 2) The remaining \$350.00 will be due on or before January 31, 1991, as payment in full hereunder.

By: \_\_\_\_\_  
Ms. Linda Feickert  
Rt. 3 Box 607  
Hulbert, OK 74441

Signed the \_\_\_\_\_ day of \_\_\_\_\_, 1990

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL REGULATION

ENFORCEMENT TELEPHONE LOG

CASE NAME: Linda Feickert DATE: 11-6-90 TIME: 8:50 am  
CONTACT: Frederic Feickert OF: \_\_\_\_\_  
PHONE: 918 772-2341 / 918 459-0605 CALLED /  
WAS CALLED

\*\*\*\*\*

DISCUSSION: I explained to Mr. Feickert that the Dept. revisited the penalty & lowered it to \$350.00. He said he really felt the penalty - any penalty!! - was unjust & that the barrels in question were isolated in the warehouse & weren't supposed to be removed w/ the trash. I explained that the fact remained that Mrs. Feickert as the generator was still responsible for the improper disposal of the drums according to the law. He said he did not intend to

PREPARED BY: G. Hurley

fight the state of Florida - that he didn't have the money  
& that he felt "picked on" because he couldn't afford the  
fight. He asked that we postpone the \$350.00 until after  
the 1<sup>st</sup> of year. I will check but can't promise. I will  
draw up the C.O. & addendum if possible.

Please refer to the instructions for Filing Notification before completing this form. The information requested here is required by law (Section 3010 of the Resource Conservation and Recovery Act).



# Notification of Regulated Waste Activity

United States Environmental Protection Agency

Date Received  
(For Official Use Only)

## I. Installation's EPA ID Number (Mark 'X' in the appropriate box)

☒ A. First Notification

☐ B. Subsequent Notification  
(complete item C)

C. Installation's EPA ID Number

FLD984183707

## II. Name of Installation (Include company and specific site name)

LINDA FIECKERT

## III. Location of Installation (Physical address not P.O. Box or Route Number)

Street

Rt 3 Box 607 519 SE 32nd Ct

Street (continued)

City or Town

State

ZIP Code

Ft Lauderdale FL 33301-

County Code

County Name

011 Broward

## IV. Installation Mailing Address (See Instructions)

Street or P.O. Box

Rt 3 Box 607

City or Town

State

ZIP Code

Huiberth OK 74441-

## V. Installation Contact (Person to be contacted regarding waste activities at site)

Name (last)

(first)

Job Title

Phone Number (area code and number)

## VI. Installation Contact Address (See Instructions)

A. Contact Address  
Location Mailing

B. Street or P.O. Box

City or Town

State

ZIP Code

## VII. Ownership (See Instructions)

A. Name of Installation's Legal Owner

NON NOTIFIER

Street, P.O. Box, or Route Number

City or Town

State

ZIP Code

Phone Number (area code and number)

B. Land Type

C. Owner Type

D. Change of Owner (Date Changed)

Indicator

Month Day Year

Yes

No



ID: For Official Use Only																									
<b>VIII. Type of Regulated Waste Activity (Mark 'X' in the appropriate boxes. Refer to instructions.)</b>																									
<b>A. Hazardous Waste Activity</b> <input type="checkbox"/> 1. Generator (See instructions) a. Greater than 1000 kg/mo (2,200 lbs.) b. 100 to 1000 kg/mo (220 - 2,200 lbs.) c. Less than 100 kg/mo (220 lbs.) <input type="checkbox"/> 2. Transporter (Indicate Mode in boxes 1-5 below) a. For own waste only b. For commercial purposes Mode of Transportation: <input type="checkbox"/> 1. Air <input type="checkbox"/> 2. Rail <input type="checkbox"/> 3. Highway <input type="checkbox"/> 4. Water <input type="checkbox"/> 5. Other: <u>Don Handler</u> <input type="checkbox"/> 3. Treater, Storer, Disposer (at installation) Note: A permit is required for this activity; see instructions. a. Hazardous Waste Fuel <input type="checkbox"/> 1. Generator Marketing to Burner <input type="checkbox"/> 2. Other Marketers c. Burner - Indicate device(s) - Type of Combustion Device: <input type="checkbox"/> 1. Utility Boiler <input type="checkbox"/> 2. Industrial Boiler <input type="checkbox"/> 3. Industrial Furnace <input type="checkbox"/> 5. Underground Injection Control	<b>B. Used Oil Fuel Activities</b> <input type="checkbox"/> 1. Off-Specification Used Oil Fuel a. Generator Marketing to Burner b. Other Marketer c. Burner - Indicate device(s) - Type of Combustion Device: <input type="checkbox"/> 1. Utility Boiler <input type="checkbox"/> 2. Industrial Boiler <input type="checkbox"/> 3. Industrial Furnace <input type="checkbox"/> 2. Specification Used Oil Fuel Marketer (or On-site Burner) Who First Claims the Oil Meets the Specification																								
<b>IX. Description of Regulated Wastes (Use additional sheets if necessary)</b>																									
<b>A. Characteristics of Nonlisted Hazardous Wastes.</b> Mark 'X' in the boxes corresponding to the characteristics of nonlisted hazardous wastes your installation handles. (See 40 CFR Parts 261.20 - 261.24) 1. Ignitable (D001) <input type="checkbox"/> 2. Corrosive (D002) <input type="checkbox"/> 3. Reactive (D003) <input type="checkbox"/> 4. EP Toxic (D000) <input type="checkbox"/> (List specific EPA hazardous waste number(s) for the EP Toxic contaminant(s))																									
<b>B. Listed Hazardous Wastes.</b> (See 40 CFR 261.31 - 33. See instructions if you need to list more than 12 waste codes.) <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <td style="width: 16.6%;">1</td> <td style="width: 16.6%;">2</td> <td style="width: 16.6%;">3</td> <td style="width: 16.6%;">4</td> <td style="width: 16.6%;">5</td> <td style="width: 16.6%;">6</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td>7</td> <td>8</td> <td>9</td> <td>10</td> <td>11</td> <td>12</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>		1	2	3	4	5	6							7	8	9	10	11	12						
1	2	3	4	5	6																				
7	8	9	10	11	12																				
<b>C. Other Wastes.</b> (State or other wastes requiring an I.D. number. See instructions.) <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <tr> <td style="width: 16.6%;">1</td> <td style="width: 16.6%;">2</td> <td style="width: 16.6%;">3</td> <td style="width: 16.6%;">4</td> <td style="width: 16.6%;">5</td> <td style="width: 16.6%;">6</td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>		1	2	3	4	5	6																		
1	2	3	4	5	6																				
<b>X. Certification</b> <p>I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">Signature</td> <td style="width: 33%;">Name and Official Title (type or print)</td> <td style="width: 33%;">Date Signed</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>		Signature	Name and Official Title (type or print)	Date Signed																					
Signature	Name and Official Title (type or print)	Date Signed																							
<b>XI. Comments</b> <div style="border: 1px solid black; height: 40px; width: 100%;"></div>																									
<p>Note: Mail completed form to the appropriate EPA Regional or State Office. (See Section III of the booklet for addresses.)</p>																									

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL REGULATION

ENFORCEMENT TELEPHONE LOG

CASE NAME: Linda Feickert DATE: 11-2-90 TIME: 2:45 pm  
CONTACT: Dr. Alex Padua OF: DER CALLED /  
PHONE: Saadi Motamedi WAS CALLED

\*\*\*\*\*

DISCUSSION: Met w/ Alex Padua & Saadi Motamedi on this date to  
revisited the penalty assessed in this case. Penalty reduced from  
\$ 2250.00 to \$ 350.00. See original penalty calculation sheet.

PREPARED BY: Ginny Hurley

ROUTING AND  
TRANSMITTAL SLIP

ACTION NO

ACTION DUE DATE

TO: (NAME, OFFICE, LOCATION)

Ms Wanda Parker

Mahassee

Bureau of Waste Planning

Regulation

REMARKS:

As you requested:

copy of Linda Feickert

NOV

FROM: Ginny Hurley, ESI  
SEFD/WPB

Initial

Date

Initial

Date

Initial

Date

Initial

Date

## INFORMATION

Review &amp; Return

Review &amp; File

Initial &amp; Forward

## DISPOSITION

Review &amp; Respond

Prepare Response

For My Signature

For Your Signature

Let's Discuss

Set Up Meeting

Investigate &amp; Report

Initial &amp; Forward

Distribute

Concurrence

For Processing

Initial &amp; Return

DATE

10-23-90

PHONE

S.C. 232-2650

Type Facility: (Circle One)

Treat/Store/Dispose

Non-Handler

Transporter

Generator

Small Quan. Generator

Cond. Exempt S.Q.G.

Exempt

2b. Type Ownership: (Circle One)

Federal

State

County

Municipal

Private

Other

Contractor/State

Oversight

e (Put Code in Box)

\_\_\_\_/\_\_\_\_/\_\_\_\_

H.W.

Inhalation/Releases

t.B | Cmpl. Sch | Manifest | Other | Land-Ban

		X	X	
X S	X S Z	X S	X S	X S
Z O	O C B	Z O	Z O	Z O
H	H	H	H	H

or AA)

Penalty		Resp. Ag. (use code)
Assessed	Collected	
4205.00		S

for 03 = Warning Letter  
 of EPA Warn. NOV Ltr.  
 cement 04 = NOV  
 ons: EPA Admin. Compl.

05 = CO  
 EPA Final Admin. Order  
 10 = Informal  
 11 = Filed Civil Action  
 12 = Filed Criminal Action  
 14 = NOV to EPA  
 18 = Civil Referral to AG/DOJ  
 19 = Final Judicial Order

Codes for Resp.  
 Agency:  
 E = EPA  
 S = State  
 X = EPA -  
 Oversight

\* See Instructions for Additional Codes

Enforcement Comment:

FREDERIC J. OR LINDA G. FEICKERT

RT. 3, BOX 607 918-772-2341  
HULBERT, OK 74441

1712

PAY TO THE  
ORDER OF

*10/9* 19 *90* 86-1203/1031  
*Florida Dept of Environmental* \$ *1955*  
*Nineteen hundred fifty-five and* <sup>*no*</sup>/<sub>*100*</sub> *00* DOLLARS



**THE American Bank**

P.O. BOX 568  
Wagoner, Oklahoma 74477

MEMO

*519 SE 32 Ct Bay "B"*

*Linda G. Feickert*

**FILE**

*10/15/90*

October 9, 1990

RECEIVED  
OCT 15 1990

Dept. of Environmental Reg.  
West Palm Beach

Alexander Padva, Ph.D.  
Waste Programs Administrator  
Southeast Florida District  
State of Florida Department of Environmental Regulation  
1900 South Congress Avenue, Suite A  
West Palm Beach, Florida 33406

Attn: Benny Hurley

Re: Department of Environmental Regulation vs.  
Linda Feickert; Notice of Violation: OGC Case No.  
90-1101.

Dear Mr. Padva:

I am writing this letter concerning the above referenced case and in response to a telephone conversation between myself and Benny Hurley of your department.

Enclosed you will find my check in the amount of \$1,955.00 to cover the cost and expenses incurred by the Department while investigating this matter as Ms. Hurley advised.

I hope to attain a complete adjustment to the remaining \$2,250.00 that the Department is requesting as a penalty in this matter with the following information.

I originally bought the two barrels in question in Case No. 90-1101 from Rinker Materials during the construction phase of my warehouse building at 519 S.E. 32nd Court, Ft. Lauderdale, Florida. These two barrels were stored in Bay "B" at 519 S.E. 32nd Court for use at a future time since they were not completely empty. Since I bought them in October of 1986 and January of 1987, you can see that I did not intend to get rid of them.

In July of 1989 I had to have a tenant evicted from Bay "B" at 519 S.E. 32nd Court for non-payment of rent. After the tenant was evicted, Mr. Larry Rowe, my real estate agent at that time, inspected the bay and called me to tell me that my tenant had left a great deal of trash in the bay and it needed to be hauled off. I contacted Mr. Ray Kohl to haul off the trash. Mr. Kohl sent me a bill for \$360.00 and I paid him with my personal Check No. 587 dated 9/4/89. I have been unable to find the bill from Mr. Kohl but a copy of the cancelled check is enclosed.

In January of 1990 I received a call from Jeff Tobergte regarding this matter. He wanted to know if the material that had been dumped was mine. I told him the two 55



gallon barrels from Lambert were mine and that they had been in Bay B at 519 S.E. 32nd Court and that I had had that bay cleaned out and the trash hauled away. I told him I would check my records to get the name of the trash hauler and get back to him. I checked my records and my husband, Frederic Feickert, called Mr. Tobergte and gave him Mr. Kohl's name.

My husband Frederic Feickert spoke to Mr. Ray Kohl over the phone regarding this matter and Mr. Kohl told him that he had in fact hauled off all of the trash from Bay "B" and disposed of it at a dump site in West Palm Beach. A notarized statement from my husband is enclosed.

I called Mr. Kohl last night, 10/8/90, in Ft. Lauderdale regarding this matter and left word with his answering service to have him call me. He returned my call promptly and the following is what he told me:

I cleaned out the bay and put the two barrels on the outside of the building. I did not haul them off. Someone must have picked them up and dumped them.

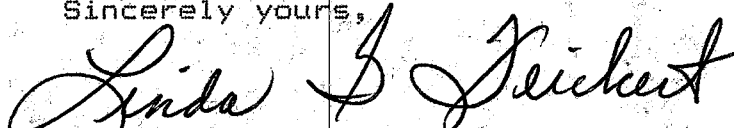
In Mr. Jeff Tobergte's report the following was reported:  
"4/19/90 - Bruce Lawless (GFC) and I talked to Ray Kohl. Kohl remembers cleaning out the bay in question, but he does not remember any drums or 5-gal. containers. (He said he doesn't haul such items.) He has done work for Feickert in the past. About two months ago, he talked to Linda Feickert; she had called him about this matter."

As you can see Mr. Kohl's story changes, even Mr. Tobergte stated in his report, "5/15/90 - Ray Kohl is the most likely dumper in this case, but we are not able to prove it at this time."

I personally have not been in Florida for approximately two years. I realize that this is in no way an excuse for the improper disposition of these materials. I hope that you will show some consideration in this matter and drop the penalty of \$2,250.00 since I have paid the Department's expenses of \$1,955.00.

I appreciate your consideration in this matter and remain,

Sincerely yours,

  
Linda G. Feickert

Encls. (3)

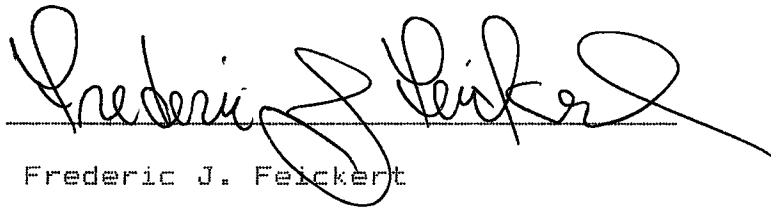
October 9, 1990

My name is Frederic J. Feickert, and this is my statement regarding my knowledge of the removal of two 55 gallon drums from our warehouse at 519 S.E. 32nd Court in Fort Lauderdale, Florida.

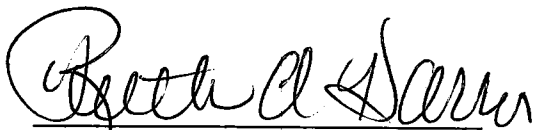
I spoke to Ray Kohl in early January 1990 about the trash he had removed from our warehouse at 519 S.E. 32nd Court, Bay "B", and told me that he had removed everything from the Bay and that he had disposed of it at a dump sight in West Palm Beach, Florida.

I paid Ray Kohl Trash Hauling \$360.00 for the removal of trash from the warehouse and I believe that he had disposed of it in proper fashion as that is his business and I had no reason to think otherwise. My wife and I are not experts in the proper disposal of trash and waste materials and had no knowledge that the drums of "Waterban R" and "#64 RB Resin?" had been removed and dumped irresponsibly until the telephone call from Mr. Jeff Tobergte of the Florida Department of Environmental Regulation.

Signed: \_\_\_\_\_

  
Frederic J. Feickert

SIGNED THE 12TH DAY OF OCTOBER, 1990.



NOTARY PUBLIC

MY COMMISSION EXPIRES 2-10-94

WEDNESDAY 12-SEP-1989

60105586  
587

FREDERIC J. FEICKERT  
LINDA G. FEICKERT

9/4 89

63-623982  
870  
88

PAY TO THE  
ORDER OF

Ray Kohli Jr  
Three hundred sixty and <sup>no</sup>/<sub>100</sub> DOLLARS

**NCNB**

NCNB National Bank  
of Florida  
Pompano Beach, FL 33069

MEMO

9/4/89 519 SE 32 G Linda G Feickert

60105586 NCNB 89255

0660-0010-4  
113537646 09-12-89

00311 003 03 25 0000000000000353 890911  
BROWARD SCH C U FT LAUD. FL (305)486-2728-267078299<-

067006238

FT LAUDERD

Ray Kohli Jr  
Margaret Thomas  
297638-01



STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL REGULATION

ENFORCEMENT TELEPHONE LOG

CASE NAME: Linda Feckert DATE: 10-1-90 TIME: 10:40 am  
CONTACT: Linda Feckert OF: Hubert, Oklahoma CALLER /  
PHONE: 918-772-2341 WAS CALLED

\*\*\*\*\*

DISCUSSION:

I told Linda that she has 2 options:

- 1) Agree to sign CO - pay all C & E + penalties.
- 2) Send a letter certifying compliance & try to justify reduction of penalties + C & E.
- 3) We can do it over the phone and by mail (Consent Order).
- 4) Include w/ letter - notarized statement re: Mr. Feckert's

PREPARED BY: G. Hurley

conversation w/ Mr. Kohl where Mr. Kohl admitted he dumped  
drugs.

Copy 1055

September 17, 1990

RECEIVED

1990 SEP 24 PM 3 14

Alexander Padva, Ph.D.  
Waste Programs Administrator  
Southeast Florida District  
State of Florida Department of Environmental Regulation  
1900 South Congress Avenue, Suite A  
West Palm Beach, Florida 33406

FLA. DEPT. OF ENVIRONMENTAL REG.  
WEST PALM BEACH

Re: "REQUEST FOR AN INFORMAL CONFERENCE"  
Department of Environmental Regulation vs.  
Linda Feickert; Notice of Violation; OGC Case No.  
90-1101.

Dear Dr. Padva:

Please consider this my written "Request for an Informal Conference" as set forth in the letter I received from the Florida Department of Environmental Regulation dated September 11, 1990.

I would appreciate your setting this conference at the latest possible date as I must make airline reservations to come to Florida from my home in Oklahoma and airline reservations are very expensive if one does not have some lead time.

I appreciate your consideration in this matter and remain,

Very Truly Yours,



Linda G. Feickert  
Route 3, Box 607  
Hulbert, Oklahoma 74401  
918 772-2341 459-0605

lf

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL REGULATION

ENFORCEMENT TELEPHONE LOG

CASE NAME: Linda FEIKERT DATE: 9/14/90 TIME: 4:03pm  
CONTACT: Linda FEIKERT OF: \_\_\_\_\_ CALLED /  
WAS CALLED  
PHONE: \_\_\_\_\_

\*\*\*\*\*

DISCUSSION: ms. FEIKERT Asked what was the NOV for and what were the penalty and the costs and expenses - and whether she can resolve the issues by phone since she lives in Oklahoma. she was informed of DER's policies reg. Penalty and costs + expenses as well as ~~an~~ a Generator's responsibility. she said that she did not know about the dumping and Mr. Kohl had dumped the waste. she is willing to pay the costs + expenses. However she does not want the penalty. she was told that she can ~~waive~~ utilize her options reg. The Notice of Rights and PREPARED BY: Sarah  
if she can justify a penalty waiver or reduction of the fines we are willing to look at them.

UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

**SENDER INSTRUCTIONS**

Print your name, address and ZIP Code in the space below.

- Complete Items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RETURN

TO



Print Sender's name, address, and ZIP Code in the space below.

Ginny Hurley

STATE OF FLORIDA

DEPARTMENT OF ENVIRONMENTAL REGULATION

1900 SOUTH CONGRESS AVE., SUITE A

WEST PALM BEACH, FL 33406

RECEIVED

SEP 17 1990

Dept. of Environmental Reg.  
West Palm Beach

SEP  
14  
1990

PM

444



PENALTY FOR PRIVATE  
USE, \$300

- **SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address.      2. ☐ Restricted Delivery  
(Extra charge) (Extra charge)

3. Article Addressed to:

Ms. Linda Feickert  
Rte 3, Box 607  
Mulbert, Oklahoma  
74441

4. Article Number

P 391122-696

Type of Service:

- ☐ Registered      ☐ Insured  
☒ Certified      ☐ COD  
☐ Express Mail      ☐ Return Receipt  
for Merchandise

Always obtain signature of addressee  
or agent and DATE DELIVERED.

5. Signature — Addressee

X

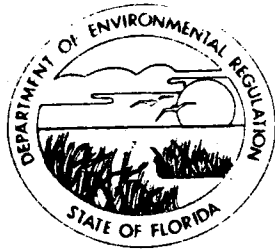
6. Signature — Agent

X

7. Date of Delivery

9/14/90

8. Addressee's Address (ONLY if  
requested and fee paid)



# Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406 • 407-964-9008

Bob Martinez, Governor

Dale Twachtman, Secretary

John Shearer, Assistant Secretary  
Scott Benyon, Deputy Assistant Secretary

SEP 11 1990

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Linda Feickert  
Rt. 3, Box 607  
Hulbert, Oklahoma 74441

RE: Department of Environmental Regulation vs. Linda Feickert; Notice of Violation; OGC Case No. 90-1101.

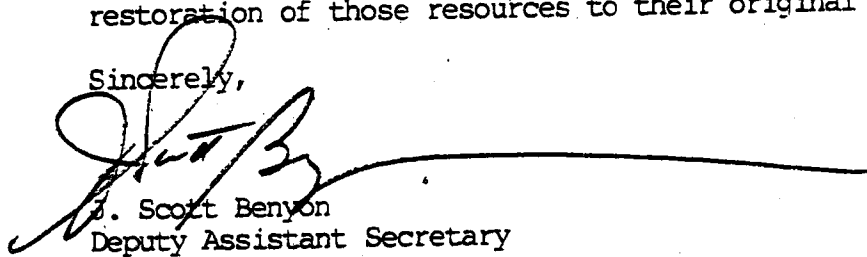
Dear Ms. Feickert:

Attached is a Notice of Violation (NOV) issued by the Department in the referenced case. The NOV addresses allegations of Linda Feickert's violations of Florida Statutes and Department rules.

An administrative resolution of this matter must address the issues raised herein, recommended corrective actions, and an appropriate monetary settlement. In accordance with the Department's Penalty Policy, the calculated penalty settlement for this matter is \$2,250.00 in addition to costs and expenses of \$1,955.00 incurred by the Department while investigating this matter. Any adjustment to this amount would be based on submittal of additional facts not already available to the Department. In the absence of a settlement, the Department may seek a separate judicial resolution for the penalty issue.

The NOV's Notice of Rights section explains what recourse Linda Feickert has concerning resolution of the allegations contained in the NOV. Please read this section carefully. You are further advised that you may be held liable for any damages occurring to the resources of the State and for the restoration of those resources to their original condition.

Sincerely,

  
J. Scott Benyon  
Deputy Assistant Secretary

JSB/gh

cc: Office of General Counsel, DER, Tallahassee  
Broward County Environmental Quality Control Board  
File, Reporting Coordinator  
West Palm Beach DER file

STATE OF FLORIDA

DEPARTMENT OF ENVIRONMENTAL REGULATION

STATE OF FLORIDA DEPARTMENT	:	IN THE OFFICE OF THE
OF ENVIRONMENTAL REGULATION,	:	<u>SOUTHEAST FLORIDA DISTRICT</u>
	:	
Complainant,	:	
	:	
vs.	:	
	:	OGC Case No. 90-1101
LINDA FEICKERT,	:	
	:	
Respondent.	:	

---

NOTICE OF VIOLATION AND  
ORDERS FOR CORRECTIVE ACTION

TO: Ms. Linda Feickert  
Rt. 3, Box 607  
Hulbert, OK 74441

Certified Mail Number P 391 122 696

Pursuant to the authority of Section 403.121(2), Florida Statutes (F.S.), and Florida Administrative Code (F.A.C.) Rule 17-103.110(1), the State of Florida Department of Environmental Regulation ("Department") gives notice to Linda Feickert ("Respondent") of the following findings of fact and conclusions of law with respect to violations of Chapter 403, F.S., and Title 17.

FINDINGS OF FACT

PARAGRAPHS APPLICABLE TO ALL COUNTS

1. The Department is the administrative agency of the State of Florida which has the authority to administer and enforce the provisions of Chapter 403, F.S., and the rules promulgated thereunder in F.A.C. Title 17.
2. Respondent Linda Feickert is an Oklahoma resident that owns property located at 519 S.E. 32nd Ct., Ft. Lauderdale, FL.
3. On September 26, 1989, the Emergency Response Section of the Department's Southeast Florida District responded to an incident involving two 55-gallon drums and four 5-gallon containers found abandoned on property located at 201 S.W. 19th St., Ft. Lauderdale, FL. Some of the drums contained hazardous waste as defined in 40 Code of Federal Regulations (CFR) Part 261. A subsequent investigation by



the Department traced the origin of the drums to a warehouse at 519 S.E. 32nd Ct., Ft. Lauderdale, FL, owned by the Respondent. The emergency response incident and investigation report is attached hereto as Exhibit I.

4. On September 28, 1989, the Department's hazardous waste contractor, OHM Corporation, sampled and removed the drums and containers to the Department's hazardous waste storage shed located in West Palm Beach, Florida.

5. On November 8, 1989, the investigation revealed that containers #1 and #2 had been shipped to Rinker Materials Corporation, 29 S.W. 33rd St., Ft. Lauderdale, FL. Rinker later confirmed that the containers had been shipped to a warehouse at 519 S.E. 32nd Ct., Ft. Lauderdale, owned by Linda Feickert of Hulbert, OK.

6. On January 4, 1990, the Department called Linda Feickert at her place of business in Oklahoma. Ms. Feickert confirmed that she still owned the warehouse at the above referenced address and that at least two of the abandoned drums belonged to her. Per Ms. Feickert the four remaining containers probably belonged to the previous tenant.

7. On January 30, 1990, Mr. Fredrick Feickert informed the Department that he had paid \$360.00 to Mr. Ray Kohl of Kohl's Trash Hauling to dispose of trash left by the tenant at 519 S.E. 32nd Ct.

8. On April 19, 1990, the Department contacted Mr. Kohl regarding work he performed for the Feickerts. Mr. Kohl confirmed that he had cleaned out the warehouse bay at the above referenced address at the request of Ms. Feickert. However, he had no recollection of any drums or five-gallon containers.

#### COUNT I

#### Improper Disposal of Hazardous Wastes

9. Respondent failed to ensure proper delivery of hazardous waste to a permitted Treatment, Storage, or Disposal Facility and disposed of hazardous waste in a manner not authorized by the Department.

#### COUNT II

#### Violation of Hazardous Waste Management Rules

10. Respondent violated Department rules governing management of hazardous waste by:

- a) Failing to use a State certified hazardous waste transporter to transport hazardous waste.
- b) Failing to use the manifest system when shipping hazardous waste off-site.
- c) Failing to label all drums containing hazardous waste with the words "Hazardous Waste".

COUNT III  
Creating an Imminent Hazard

11. Respondent is responsible for the unauthorized disposal of hazardous waste on a dead end roadway in a residential/commercial neighborhood, as referenced in Exhibit I. The illegally disposed hazardous waste presented an imminent hazard to the integrity of the State's groundwater resources and to the public health, safety and welfare.

COUNT IV  
Improper Disposal of Solid Waste

12. The hazardous wastes which were abandoned are solid wastes as defined in 403.703(9) and Rule 17-730.030 F.A.C. The type of waste in each drum is identified on page 2 of the Emergency Response Incident Report attached hereto as Exhibit I.

COUNT V  
Costs and Expenses

13. The Department has incurred expenses to date while investigating and abating this matter in an amount of not less than \$1955.00.

CONCLUSIONS OF LAW

The Department has evaluated the Findings of Fact with regard to the requirements of Chapter 403, Parts I and IV, F.S.; F.A.C. Chapter 17-730; 40 Code of Federal Regulations (CFR) 260 through 266. Based on the foregoing facts the Department has made the following Conclusions of Law:

14. Respondent is a person within the meaning of Sections 403.031 and 403.703, F.S.

15. The provisions of 40 CFR 260.10 and 40 CFR Parts 260 through 266 are adopted by reference in F.A.C. Rules 17-730, Parts I-IV.

16. Respondent's operation is a hazardous waste facility as defined in Section 403.703(22), F.S., F.A.C. Rule 17-730.02 and 40 CFR 260.10.

17. The facts related in COUNT I constitute a violation of Section 403.727 and 403.722, F.S. which prohibits disposal of hazardous waste at a location other than a permitted treatment, storage, and disposal facility.

18. The facts related in COUNT II constitute violations of Section 403.727 and Rules 17-730, Parts I-IV F.A.C., regarding management of hazardous wastes.

19. The facts related in COUNT III constitute a violation of 403.726 and 403.727 F.S. which prohibit any person from causing or allowing an imminent hazard and which authorizes the Department to take whatever corrective measures necessary to abate such a hazard.

20. The facts related in COUNT IV constitute a violation of Section 403.708 and Rule 17-701.040, F.A.C. which prohibit the disposal of solid wastes in a manner not approved by the Department and which specifically prohibits placement and discharge of solid wastes in or on the land within the state.

21. The costs and expenses related in COUNT V are reasonable costs and expenses incurred by the State of Florida while investigating this matter, which are recoverable pursuant to Section 403.141(1), F.S.

#### ORDERS FOR CORRECTIVE ACTION

The Department has alleged that the activities related in the Findings of Fact constitute violations of Florida law. The Orders for Corrective Action state what you, Respondent, must do in order to correct and redress the violations alleged on this notice.

The Department will adopt the Orders for Corrective Action as part of its Final Order in this case unless Respondent files a timely petition for a formal hearing or informal proceeding, pursuant to Section 403.121, F.S. and F.A.C. Rule 17-103.110 (see Notice of Rights). If Respondent fails to comply with the corrective actions ordered by the Final Order, the Department is authorized to file suit seeking judicial enforcement of the Department's order pursuant to Sections 120.69 and 403.131, F.S.

Pursuant to the authority of Section 403.061(8) and 403.121, F.S. and F.A.C. Rule 17-103.110, the Department proposes to adopt in its Final Order in this case the following specific corrective actions which will redress the alleged violations:

22. Respondent shall forthwith comply with all Department rules regarding hazardous waste management. Respondent shall correct and redress all violations listed in the Conclusions of Law. Respondent shall comply with all applicable sections in F.A.C. Chapter 17-730 and 40 CFR, Parts 260-268.

23. Within 45 days, Respondent shall submit to the Department a report certifying compliance with paragraph 22 of this notice.

24. Within thirty days, Respondent shall make payment to the Department for costs and expenses in the amount of \$1955.00. Payment shall be made by certified check or money order payable to the "State of Florida Department of Environmental Regulation," and shall be sent to the Department's Southeast Florida District Office, 1900 South Congress Avenue, Suite A, West Palm Beach, Florida 33406.

#### NOTICE OF RIGHTS

1. Respondent has the right to a formal administrative hearing pursuant to Section 120.57(1), F.S., if Respondent disputes issues of material fact raised by this Notice of Violation and Orders for Corrective Action ("Notice"). At a formal hearing, Respondent will have the opportunity to be represented by counsel, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of fact and orders, and to file exceptions to any order or hearing officer's recommended order.

2. Respondent has the right to an informal administrative proceeding pursuant to Section 120.57(2), F.S., if Respondent does not dispute issues of material fact raised by this Notice. If an informal proceeding is held, Respondent will have the opportunity to be represented by counsel, to present to the agency written or oral evidence in opposition to the Department's proposed action, or to present a written statement challenging the grounds upon which the Department is justifying its proposed action.

3. Respondent may request an informal conference with the Department pursuant to F.A.C. Rule 17-103.090 in order to resolve this matter promptly and amicably. Respondent's rights will not be adjudicated at an informal conference, and the right to a formal hearing or informal proceeding will not be affected by requesting and participating in an informal conference.

4. If Respondent desires a formal hearing or an informal proceeding, Respondent must file a written responsive pleading entitled "Petition for Administrative Proceeding" within twenty (20) days of receipt of this Notice or within ten (10) days of any timely requested informal conference held pursuant to paragraph 5 below. The petition must be in the form required by F.A.C., chapter 17-103 and by F.A.C. Rule 28-5.201. A petition is filed when it is received by the Department's Office of General Counsel, 2600 Blairstone Road, Tallahassee, Florida 32399-2400. A petition must specifically request a formal hearing or an informal proceeding, it must admit or deny each Findings of Fact of this Notice, and must state any defenses upon which Respondent relies. If Respondent lacks knowledge of a particular allegation, Respondent must so state, and that statement will operate as a denial.

5. If Respondent desires an informal conference, Respondent must file a written "Request for an Informal Conference" within ten (10) days of receipt of this Notice. The request must be made to the person indicated on the last page of this Notice. The informal conference will be held within ten days of receipt of the request. If no resolution of this matter results from the informal conference, Respondent has the right to file a petition for a formal hearing or informal proceeding within ten days of the date the conference is held.

6. Respondent will waive the right to a formal hearing or an informal proceeding if a petition is not filed with the Department within twenty days of the date of this Notice or ten days of the date of an informal conference if one is held. These time limits may be varied only by written consent of the Department.

7. The allegations of this Notice together with the Orders for Corrective Action will be adopted by the Department in a Final Order if Respondent fails to file a timely petition for a formal hearing or an informal proceeding, pursuant to Section 403.860, F.S., and F.A.C. Rule 17-103.110. A Final Order will constitute a full and final adjudication of matters alleged in the Notice of Violation and Orders for Corrective Action.

8. If the Respondent fails to comply with the Final Order, the Department is authorized to file suit in circuit court seeking a mandatory injunction to compel compliance with the Order, pursuant to Section 120.69 and 403.727, F.S. The Department may also seek to recover damages, all costs of litigation including reasonable attorney's fees and expert witness fees, and civil penalties of not more than \$50,000 per day for each day that Respondent has failed to comply with the Final Order.

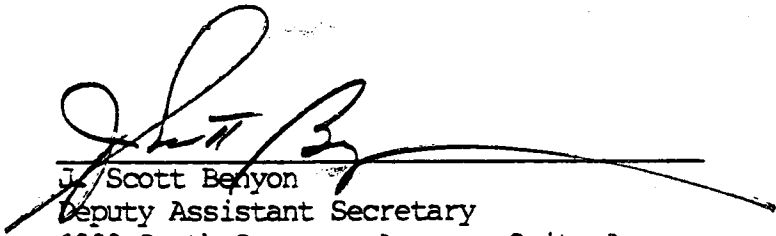
9. Litigation will be avoided if Respondent immediately complies with the Orders for Corrective Actions. This matter may be resolved if the Department and Respondent enter into a Consent Order, in accordance with F.A.C. Rule 17-103.110(3), upon such terms and conditions as may be mutually agreeable. In this regard, the Department has entered into an agreement with the United States Environmental Protection Agency ("EPA") regarding cases involving violations of hazardous waste rules. The agreement requires the penalties to be computed on the basis of the EPA Resource Conservation and Recovery Act Civil Penalty Policy dated May 8, 1984, a copy of which is available upon request from the Department. Any settlement between the Department and the Respondent concerning violations set forth herein must include the payment of penalties consistent with this policy. Should the parties not be able to settle this action, the Department may voluntarily dismiss this NOV and seek judicial imposition of penalties in circuit court, file a separate and independent action in court for imposition of civil penalties, or refer the violations to EPA.

10. The Department is not barred by issuance of this Notice from maintaining an independent action in circuit court with respect to alleged violations. If such action is warranted, the Department may seek injunctive relief, damages, civil penalties of not more than \$50,000 per day, and all costs of litigation.

11. Copies of Department rules referenced in this Notice may be examined at any Department office or may be obtained by written request to person listed on the last page of this Notice.

DATED THIS 11<sup>th</sup> OF September, 1990

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION

  
J. Scott Benyon  
Deputy Assistant Secretary  
1900 South Congress Avenue, Suite A  
West Palm Beach, Florida 33406

Linda Feickert  
Notice of Violation  
Page 8 of 8

Copies furnished to:

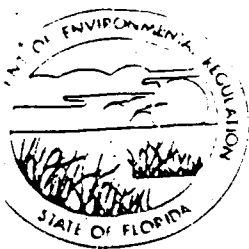
Office of General Counsel, DER, Tallahassee  
Broward County Environmental Quality Control Board  
File, Reporting Coordinator  
West Palm Beach, DER Files

A petition for hearing must be filed with:

OFFICE OF GENERAL COUNSEL  
State of Florida Department of Environmental Regulation  
2600 Blaiirstone Road  
Tallahassee, Florida 32399-2400  
Telephone: 904/488-9730

A request for an informal conference must be made to:

Alexander Padva, Ph.D.  
Waste Programs Administrator  
Southeast Florida District  
State of Florida Department of Environmental Regulation  
1900 South Congress Avenue, Suite A  
West Palm Beach, Florida 33406  
Telephone: 407/964-9668



# Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave. Suite A • West Palm Beach, Florida 33411 • 407-840-6000

Bob Martinez, Governor

Dale Twachmann, Secretary

John Shearer, Assistant Secretary

Scott Benyon, Deputy Assistant Secretary

MAY 25 1990

## EMERGENCY RESPONSE INCIDENT REPORT

Final Report Date: 09/29/89

I. NOTIFICATION date: 09/25/89 Incident date/time: 08/89  
REPORTED by: Ft. Lauderdale Police Dept Phone:  
Affiliation: Fire Dept. Police ☒ Sheriff ☒ DOT ☒ FMP ☒ USCG  
EPA ☒ DER ☒ PBCHD ☒ PBCDERM ☒ BCEQCB ☒ MDCDERM ☒ MCPHU  
SLCHD ☒ OCHD ☒ GFC ☒ neighbor ☒ resident ☒ anonymous  
other

II. TYPE: Spill ☒ Fire ☒ Abandoned ☒ Dumping ☒ other  
Material(s): unknown ☒ acid ☒ alkali ☒ solvent ☒ paint ☒ pesticide  
herbicide ☒ gasoline ☒ diesel fuel ☒ jet fuel ☒ misc. fuel ☒ oil ☒  
gas/vapor ☒ misc. chem. ☒ other

DETAILS See attached for drum details  
HAZARD(s): flammable ☒ combustible ☒ toxic ☒ corrosive ☒ oxidizer  
explosive ☒ reactive ☒ radioactive ☒ biohaz ☒ other ☒ none

AMOUNT OR #: gal. ☒ lbs. ☒ 55-gal. drums 2 5-gal. containers 4  
other container/size

SOURCE/Case: container spill/leak ☒ tank spill/leak ☒ vehicle accident  
dumped ☒ other

III. LOCATION dead end at 201 SW 19 St., Ft. Lauderdale  
COUNTY: Palm Beach ☒ Broward ☒ Dade ☒ Martin ☒ St. Lucie ☒ Okeechobee  
RESPONSIBLE PARTY: (unknown) Linda Feickert (generator)  
Address Rt. 3 Box 607, Hulbert, Okla. 74441  
Phone (918) 459-0605 Contact L. Feickert

IV. AFFECTED AREAS: soil ☒ canal/ditch ☒ lake/pond ☒ storm drain ☒ air  
groundwater ☒ drinking wells nearby ☒ residential ☒ commercial area ☒  
vacant ☒ roadway ☒ beach ☒ parking lot ☒ farm ☒ other ☒ injuries

V. RESPONSE: DER asst. req'd. ☒ local agency lead ☒ fire extinguished  
spill absorbed/diked ☒ neutralized ☒ soil excavated ☒ booms/abs.pads  
leak stopped ☒ material overpacked/removed ☒ pumped ☒ vapors suppressed  
containers closed ☒ containers labeled ☒ area cordoned ☒ diluted  
mitigated naturally ☒ samples ☒ field tests ☒ photographs ☒ material  
placed in DER Shed ☒ (OHM job # /task#) covered with plastic  
OTHER INFO.: DER Contractor job # 7946

FIELD TEST results: See Section II ☒ verified initial info.  
details  
SCALE OF INCIDENT: very minor ☒ minor ☒ moderate ☒ major  
FOLLOWUP 5/15/90-case referred to HW section for penalties & cost recovery from  
generator. (dumper uncertain)

VI. AGENCIES NOTIFIED: SWF ☒ EPA ☒ USCG ☒ DNR/FMP ☒ Fire ☒ Police  
PBCHD ☒ PBCDERM ☒ BCEQCB ☒ MDCDERM ☒ MCPHU ☒ SLCHD ☒ OCHD  
DOT ☒ Public Works ☒ GFC ☒ Other: City of Ft. Lauderdale (Jim Ehrenstein)  
305/7492-7806

INVESTIGATOR(S): Jeff Toberate JT ☒ Bob Kukleski ☒ Knox McKee ☒  
Other ☒ dates 09/26, 0/28  
TIME SPENT: field ☒ office ☒ total ☒ hours ☒ attached ☒  
ADD'L. INFO. attached ☒ See DER Shed File ☒ see file

JT:am/4

CC: Emergency Response, DER/Tail. Alex Padva, Waste Prog. Admin.  
Local Program, BCEQCB Don White, Water Prog. Admin.  
Scott Benyon, Dep. Asst. Sect. Paul Wierzbicki, HW Supervisor  
Other: Shed file

EXHIBIT 1



MAY 25 1990

1. 1 black 55-gal. DM, "Waterban-R" by Lambert Corp. (Orlando, FL). On top (by hand): "Lambert Corp. 20 N. Coburn Ave., Orlando, FL." Also on top, a white sticker:

printed: } Lambert Corp.  
20 N. Coburn Ave.  
Orlando, FL  
305/841-2940

"44"

handwritten on sticker

typed: } Rinker Materials Corp.  
29 SW 33 St.  
Ft. Lauderdale, FL 33315

Contains: ~ 15 gal. clean, combustible liquid, appears to be mineral spirits.

2. 1 red 55-gal. DM, Lambert Corp. "64 RB Resin Core." It has the same sticker as #1, above. On the side, the following is typed on a faded label:

"67984"  
"440 gallons"  
"Sample #L-14-86/Batch # S-3229DL3"

Contains: ~ 2" of what appears to be rusty water.

3&4 } blue 5-gal. plastic containers, 1 has never been opened. Rochem  
"Metal Brite", "contains phosphoric acid." Rochem, N.Y.  
212/425-4780.

Contains: both are full, and contain  $H_3PO_4$ . pH 1-2.

5. 1 blue 5-gal. plastic container, Rochem "Sodium Hypochlorite." "Bleach handwritten on top; "Blend handwritten" on side.

Contains: full of clean, red transmission fluid.

6. 1 yellow, metal 5-gal. can, never opened. Rochem "Oil Spill Remover, Low Toxicity." Full.

Contains: diesel fuel base?

---

On 9/26, I collected a sample from each container (except #6), and labeled them 1-5 in the order above. I took photos, and cordoned the containers. Tom Dazey (Broward State Attorney's Office, 305/357-6953) appeared on scene. (Shortly before, a Ft. Lauderdale PD patrol car had stopped by while I was there.)

A nearby resident approached Tom and I, and said she first saw the drums on August 28 while walking her dog. She called Anita Allen (BCDOCB) shortly afterwards, and was told to call the City of Ft. Lauderdale, which she did. However, she said the containers were not removed, and she observed no activity until seeing my truck today (9/26). (Tom Dazey has her name and address.)

Then, Tom and I spoke to Charles Reed, owner of Karlynn Corp. Printing across the street at this cul-de-sac (200 SW 19 St., Ft. Lauderdale 33315, 305/462-0701). He said that before Labor Day (9/4), on a Saturday night he heard a "thump" and came out to see what happened. He saw a stake-bed truck (white or light color with a dark back) driving away. It was too dark and too far away to get more details. He noticed the drums. This same thing happened another Saturday night when some pallets and refrigerator were dumped by the same truck.

9/28/89

Using OHM Corp. (job #7946), the containers were removed and taken to the DER Shed. My samples were given to OHM, and OHM collected a sample from the yellow can (which had never been opened). The samples were numbered in

sequence from other samples in different drums which were analyzed at the same time. The samples are:

OHM SAMPLE #

09  
10  
11  
12  
13  
14

Container

black 55-gal. Lambert drum  
red 55-gal. Lambert drum  
blue Rochem Metal Brite jug  
blue Rochem Metal Brite jug  
blue Rochem hypochlorite jug  
yellow Rochem Oil Spill Remover can

- 10/19/89 I faxed drum information to DER/Orlando for checking with Lambert Corp.
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- 11/08/89 Tom Dazey said he got a call from Rinker. On 10/10/86, the "64 RB Resin Cure" was sold to Linda Feickert; the "Waterban R" was sold to her on 01/26/87. Rinker files give her addresses as:  
mail: 919 Cordova Rd., Ft. Lauderdale  
prior: 1334 Ponce DeLeon Dr., Ft. Lauderdale  
shipped to: 519 SE 32 Ct., Ft. Lauderdale  
phone: 467-0551  
Her husband is Fredrick J. Feickert
- 11/16/89 I drove to 519 SE 32 Ct., which is very close to Rinker. No Feickerts are there. A sign says "available, Larry Rowe Realtors, 763-6764." I drove past 919 Cordova Rd., it is a large house, apparently of moderate to high wealth.
- 12/01/89 I called Larry Rowe Realtors. The warehouse at 519 SE 32 Ct. is owned by Linda Feickert, in Oklahoma (918/772-2341). There was no answer after repeated calls to that number.
- 01/04/89 I visited Larry Rowe Realtors. They gave me more information on Linda Feickert: 918/459-0605 (a new restaurant in Tulsa, Okla.); Rt. 3, Box 607, Mulberry, OK 74447. I called Linda; she said she moved out of Florida about one year ago. She still owns the warehouse at 519 SE 32 Ct., and had a tenant that she had to evict. The tenant's name was Frank Cocchiola, of Embassy Limousine Service. Mr. Cocchiola also outfitted boats (seats, windows, etc.), and lives in Sunrise. After the tenant was evicted, Linda had to hire a trash hauler to remove trash left behind by the tenant; Linda said she did not know hazardous materials were present. Linda said the Rochem materials were not hers, but probably the tenant's materials. Linda said the Lambert materials were hers, when she had the warehouse built; the Lambert drums were located in the same bay. Linda said she will search her records to get the information on the trash hauler.
- 01/30/90 Mr. Feickert called me. He paid \$360 to Ray Kohl (Kohl Trash Hauling) in Ft. Lauderdale in July or August (he would have to re-check for the exact date).
- 02/21/90 The phone book does not list Kohl Trash Hauling, but does have:  
Ray Kohl, Jr.  
818 SW 12 Court  
Ft. Lauderdale  
524-0158  
I drove past this address; it is a duplex and nobody appeared to be home. This residence is located about 1-1.5 miles from the site where the containers were abandoned. I dialed the above number; an answering service said this is the number for Ray Kohl Trash Hauling.

04/29/90

Bruce Lawless (GFC) and I talked to Ray Kohl. Kohl remembers cleaning out the bay in question, but he does not remember any drums or bags or containers. (he said he does not haul such items.) He has done work for Feickert in the past. About two months ago, he talked to Linda Feickert; she had called him about this matter.

05/15/90

Ray Kohl is the most likely dumper in this case, but we are not able to prove it at this time. Nevertheless, Linda Feickert has violated 40 CFR 261.5(p) for failing to ensure delivery of hazardous waste to a proper facility. In addition, DER contractor costs for analyzing the mineral spirits, transmission fluid and diesel/oil spill remover containers was \$1455. (Note: total contractor costs are actually higher but this job #7946 also included other unrelated drums from other sites; the above lab analysis is the only item specifically billed and attributable to this site.) Therefore, this matter is referred to the DER HW Section for enforcement action and cost recovery against Feickert.

JT:am/4

STATE OF FLORIDA

DEPARTMENT OF ENVIRONMENTAL REGULATION

STATE OF FLORIDA DEPARTMENT : IN THE OFFICE OF THE  
OF ENVIRONMENTAL REGULATION, : SOUTHEAST FLORIDA DISTRICT  
Complainant, :  
vs. :  
LINDA FEICKERT, : OGC Case No. 90-1101  
Respondent. :  
----- :

*FL 8/20/90*

NOTICE OF VIOLATION AND  
ORDERS FOR CORRECTIVE ACTION

TO: Ms. Linda Feickert  
Rt. 3, Box 607  
Hulbert, OK 74441

Certified Mail Number \_\_\_\_\_

Pursuant to the authority of Section 403.121(2), Florida Statutes (F.S.), and Florida Administrative Code (F.A.C.) Rule 17-103.110(1), the State of Florida Department of Environmental Regulation ("Department") gives notice to Linda Feickert ("Respondent") of the following findings of fact and conclusions of law with respect to violations of Chapter 403, F.S., and Title 17.

FINDINGS OF FACT

PARAGRAPHS APPLICABLE TO ALL COUNTS

1. The Department is the administrative agency of the State of Florida which has the authority to administer and enforce the provisions of Chapter 403, F.S., and the rules promulgated thereunder in F.A.C. Title 17.

2. Respondent Linda Feickert is an Oklahoma resident that owns property located at 519 S.E. 32nd Ct., Ft. Lauderdale, FL.

3. On September 26, 1989, the Emergency Response Section of the Department's Southeast Florida District responded to an incident involving two 55-gallon drums and four 5-gallon containers found abandoned on property located at 201 S.W. 19th St., Ft. Lauderdale, FL. Some of the drums contained hazardous waste as defined in 40 Code of Federal Regulations (CFR) Part 261. A subsequent investigation by

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the Department traced the origin of the drums to a warehouse at 519 S.E. 32nd Ct., Ft. Lauderdale, FL, owned by the Respondent. The emergency response incident and investigation report is attached hereto as Exhibit I.

4. On September 28, 1989, the Department's hazardous waste contractor, OHM Corporation, sampled and removed the drums and containers to the Department's hazardous waste storage shed located in West Palm Beach, Florida.

5. On November 8, 1989, the investigation revealed that containers #1 and #2 had been shipped to Rinker Materials Corporation, 29 S.W. 33rd St., Ft. Lauderdale, FL. Rinker later confirmed that the containers had been shipped to a warehouse at 519 S.E. 32nd Ct., Ft. Lauderdale, owned by Linda Feickert of Hulbert, OK.

6. On January 4, 1990, the Department called Linda Feickert at her place of business in Oklahoma. Ms. Feickert confirmed that she still owned the warehouse at the above referenced address and that at least two of the abandoned drums belonged to her. Per Ms. Feickert the four remaining containers probably belonged to the previous tenant.

7. On January 30, 1990, Mr. Fredrick Feickert informed the Department that he had paid \$360.00 to Mr. Ray Kohl of Kohl's Trash Hauling to dispose of trash left by the tenant at 519 S.E. 32nd Ct.

8. On April 19, 1990, the Department contacted Mr. Kohl regarding work he performed for the Feickerts. Mr. Kohl confirmed that he had cleaned out the warehouse bay at the above referenced address at the request of Ms. Feickert. However, he had no recollection of any drums or five-gallon containers.

COUNT I  
Improper Disposal of Hazardous Wastes

9. Respondent failed to ensure proper delivery of hazardous waste to a permitted Treatment, Storage, or Disposal Facility and disposed of hazardous waste in a manner not authorized by the Department.

COUNT II  
Violation of Hazardous Waste Management Rules

10. Respondent violated Department rules governing management of hazardous waste by:

- a) Failing to use a State certified hazardous waste transporter to transport hazardous waste.
- b) Failing to use the manifest system when shipping hazardous waste off-site.
- c) Failing to label all drums containing hazardous waste with the words "Hazardous Waste".

COUNT III  
Creating an Imminent Hazard

11. Respondent is responsible for the unauthorized disposal of hazardous waste on a dead end roadway in a residential/commercial neighborhood, as referenced in Exhibit I. The illegally disposed hazardous waste presented an imminent hazard to the integrity of the State's groundwater resources and to the public health, safety and welfare.

COUNT IV  
Improper Disposal of Solid Waste

12. The hazardous wastes which were abandoned are solid wastes as defined in 403.703(9) and Rule 17-730.030 F.A.C. The type of waste in each drum is identified on page 2 of the Emergency Response Incident Report attached hereto as Exhibit I.

COUNT V  
Costs and Expenses

13. The Department has incurred expenses to date while investigating and abating this matter in an amount of not less than \$1955.00.

CONCLUSIONS OF LAW

The Department has evaluated the Findings of Fact with regard to the requirements of Chapter 403, Parts I and IV, F.S.; F.A.C. Chapter 17-730; 40 Code of Federal Regulations (CFR) 260 through 266. Based on the foregoing facts the Department has made the following Conclusions of Law:

14. Respondent is a person within the meaning of Sections 403.031 and 403.703, F.S.

15. The provisions of 40 CFR 260.10 and 40 CFR Parts 260 through 266 are adopted by reference in F.A.C. Rules 17-730, Parts I-IV.

16. Respondent's operation is a hazardous waste facility as defined in Section 403.703(22), F.S., F.A.C. Rule 17-730.02 and 40 CFR 260.10.

17. The facts related in COUNT I constitute a violation of Section 403.727 and 403.722, F.S. which prohibits disposal of hazardous waste at a location other than a permitted treatment, storage, and disposal facility.

18. The facts related in COUNT II constitute violations of Section 403.727 and Rules 17-730, Parts I-IV F.A.C., regarding management of hazardous wastes.

19. The facts related in COUNT III constitute a violation of 403.726 and 403.727 F.S. which prohibit any person from causing or allowing an imminent hazard and which authorizes the Department to take whatever corrective measures necessary to abate such a hazard.

20. The facts related in COUNT IV constitute a violation of Section 403.708 and Rule 17-701.040, F.A.C. which prohibit the disposal of solid wastes in a manner not approved by the Department and which specifically prohibits placement and discharge of solid wastes in or on the land within the state.

21. The costs and expenses related in COUNT V are reasonable costs and expenses incurred by the State of Florida while investigating this matter, which are recoverable pursuant to Section 403.141(1), F.S.

#### ORDERS FOR CORRECTIVE ACTION

The Department has alleged that the activities related in the Findings of Fact constitute violations of Florida law. The Orders for Corrective Action state what you, Respondent, must do in order to correct and redress the violations alleged on this notice.

The Department will adopt the Orders for Corrective Action as part of its Final Order in this case unless Respondent files a timely petition for a formal hearing or informal proceeding, pursuant to Section 403.121, F.S. and F.A.C. Rule 17-103.110 (see Notice of Rights). If Respondent fails to comply with the corrective actions ordered by the Final Order, the Department is authorized to file suit seeking judicial enforcement of the Department's order pursuant to Sections 120.69 and 403.131, F.S.



Pursuant to the authority of Section 403.061(8) and 403.121, F.S. and F.A.C. Rule 17-103.110, the Department proposes to adopt in its Final Order in this case the following specific corrective actions which will redress the alleged violations:

22. Respondent shall forthwith comply with all Department rules regarding hazardous waste management. Respondent shall correct and redress all violations listed in the Conclusions of Law. Respondent shall comply with all applicable sections in F.A.C. Chapter 17-730 and 40 CFR, Parts 260-268.

23. Within 45 days, Respondent shall submit to the Department a report certifying compliance with paragraph 22 of this notice.

24. Within thirty days, Respondent shall make payment to the Department for costs and expenses in the amount of \$1955.00. Payment shall be made by certified check or money order payable to the "State of Florida Department of Environmental Regulation," and shall be sent to the Department's Southeast Florida District Office, 1900 South Congress Avenue, Suite A, West Palm Beach, Florida 33406.

#### NOTICE OF RIGHTS

1. Respondent has the right to a formal administrative hearing pursuant to Section 120.57(1), F.S., if Respondent disputes issues of material fact raised by this Notice of Violation and Orders for Corrective Action ("Notice"). At a formal hearing, Respondent will have the opportunity to be represented by counsel, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of fact and orders, and to file exceptions to any order or hearing officer's recommended order.

2. Respondent has the right to an informal administrative proceeding pursuant to Section 120.57(2), F.S., if Respondent does not dispute issues of material fact raised by this Notice. If an informal proceeding is held, Respondent will have the opportunity to be represented by counsel, to present to the agency written or oral evidence in opposition to the Department's proposed action, or to present a written statement challenging the grounds upon which the Department is justifying its proposed action.

3. Respondent may request an informal conference with the Department pursuant to F.A.C. Rule 17-103.090 in order to resolve this matter promptly and amicably. Respondent's rights will not be adjudicated at an informal conference, and the right to a formal hearing or informal proceeding will not be affected by requesting and participating in an informal conference.

4. If Respondent desires a formal hearing or an informal proceeding, Respondent must file a written responsive pleading entitled "Petition for Administrative Proceeding" within twenty (20) days of receipt of this Notice or within ten (10) days of any timely requested informal conference held pursuant to paragraph 5 below. The petition must be in the form required by F.A.C., chapter 17-103 and by F.A.C. Rule 28-5.201. A petition is filed when it is received by the Department's Office of General Counsel, 2600 Blairstone Road, Tallahassee, Florida 32399-2400. A petition must specifically request a formal hearing or an informal proceeding, it must admit or deny each Findings of Fact of this Notice, and must state any defenses upon which Respondent relies. If Respondent lacks knowledge of a particular allegation, Respondent must so state, and that statement will operate as a denial.

5. If Respondent desires an informal conference, Respondent must file a written "Request for an Informal Conference" within ten (10) days of receipt of this Notice. The request must be made to the person indicated on the last page of this Notice. The informal conference will be held within ten days of receipt of the request. If no resolution of this matter results from the informal conference, Respondent has the right to file a petition for a formal hearing or informal proceeding within ten days of the date the conference is held.

6. Respondent will waive the right to a formal hearing or an informal proceeding if a petition is not filed with the Department within twenty days of the date of this Notice or ten days of the date of an informal conference if one is held. These time limits may be varied only by written consent of the Department.

7. The allegations of this Notice together with the Orders for Corrective Action will be adopted by the Department in a Final Order if Respondent fails to file a timely petition for a formal hearing or an informal proceeding, pursuant to Section 403.860, F.S., and F.A.C. Rule 17-103.110. A Final Order will constitute a full and final adjudication of matters alleged in the Notice of Violation and Orders for Corrective Action.

8. If the Respondent fails to comply with the Final Order, the Department is authorized to file suit in circuit court seeking a mandatory injunction to compel compliance with the Order, pursuant to Section 120.69 and 403.727, F.S. The Department may also seek to recover damages, all costs of litigation including reasonable attorney's fees and expert witness fees, and civil penalties of not more than \$50,000 per day for each day that Respondent has failed to comply with the Final Order.

9. Litigation will be avoided if Respondent immediately complies with the Orders for Corrective Actions. This matter may be resolved if the Department and Respondent enter into a Consent Order, in accordance with F.A.C. Rule 17-103.110(3), upon such terms and conditions as may be mutually agreeable. In this regard, the Department has entered into an agreement with the United States Environmental Protection Agency ("EPA") regarding cases involving violations of hazardous waste rules. The agreement requires the penalties to be computed on the basis of the EPA Resource Conservation and Recovery Act Civil Penalty Policy dated May 8, 1984, a copy of which is available upon request from the Department. Any settlement between the Department and the Respondent concerning violations set forth herein must include the payment of penalties consistent with this policy. Should the parties not be able to settle this action, the Department may voluntarily dismiss this NOV and seek judicial imposition of penalties in circuit court, file a separate and independent action in court for imposition of civil penalties, or refer the violations to EPA.

10. The Department is not barred by issuance of this Notice from maintaining an independent action in circuit court with respect to alleged violations. If such action is warranted, the Department may seek injunctive relief, damages, civil penalties of not more than \$50,000 per day, and all costs of litigation.

11. Copies of Department rules referenced in this Notice may be examined at any Department office or may be obtained by written request to person listed on the last page of this Notice.

DATED THIS \_\_\_\_\_ OF \_\_\_\_\_, 1990

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION

-----  
J. Scott Benyon  
Deputy Assistant Secretary  
1900 South Congress Avenue, Suite A  
West Palm Beach, Florida 33406

Linda Feickert  
Notice of Violation  
Page 8 of 8

Copies furnished to:

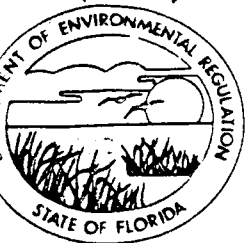
Office of General Counsel, DER, Tallahassee  
Broward County Environmental Quality Control Board  
File, Reporting Coordinator  
West Palm Beach, DER Files

A petition for hearing must be filed with:

OFFICE OF GENERAL COUNSEL  
State of Florida Department of Environmental Regulation  
2600 Blairstone Road  
Tallahassee, Florida 32399-2400  
Telephone: 904/488-9730

A request for an informal conference must be made to:

Alexander Padva, Ph.D.  
Waste Programs Administrator  
Southeast Florida District  
State of Florida Department of Environmental Regulation  
1900 South Congress Avenue, Suite A  
West Palm Beach, Florida 33406  
Telephone: 407/964-9668



# Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406 • 407-964-9068

Bob Martinez, Governor

Dale Twachtmann, Secretary

John Shearer, Assistant Secretary

Scott Benyon, Deputy Assistant Secretary

MAY 25 1990

## EMERGENCY RESPONSE INCIDENT REPORT

Final Report Date: 09/29/89

I. NOTIFICATION date: 09/25/89 Incident date/time: 08/89  
REPORTED by: Ft. Lauderdale Police Dept Phone:  
Affiliation: Fire Dept. Police ☒ Sheriff DOT FMP USCG  
EPA DER PBCHD PBCDERM BCEQCB MDCDERM MCPHU  
SLCHD OCHD GFC neighbor resident anonymous  
other

II. TYPE: Spill Fire Abandoned ☒ Dumping other  
Material(s): unknown ☒ acid ☒ alkali solvent ☒ paint pesticide  
herbicide gasoline diesel fuel jet fuel misc. fuel oil ☒  
gas/vapor misc. chem. ☒ other

DETAILS See attached for drum details

HAZARD(s): flammable combustible ☒ toxic corrosive ☒ oxidizer  
explosive reactive radioactive biohaz other none

AMOUNT OR #: gal. lbs. 55-gal. drums 2 5-gal. containers 4  
other container/size other

SOURCE/Case: container spill/leak tank spill/leak vehicle accident  
dumped ☒ other

III. LOCATION dead end at 201 SW 19 St., Ft. Lauderdale  
COUNTY: Palm Beach Broward ☒ Dade Martin St. Lucie Okeechobee  
RESPONSIBLE PARTY: (unknown) Linda Feickert (generator)  
Address Rt. 3 Box 607, Hulbert, Okla. 74441  
Phone (918) 459-0605 Contact L. Feickert

IV. AFFECTED AREAS: soil canal/ditch lake/pond storm drain air  
groundwater drinking wells nearby residential ☒ commercial area ☒  
vacant roadway ☒ beach parking lot farm other  
injuries

V. RESPONSE: DER asst. req'd. ☒ local agency lead fire extinguished  
spill absorbed/diked neutralized soil excavated booms/abs. pads  
leak stopped material overpacked/removed ☒ pumped vapors suppressed  
containers closed containers labeled area cordoned ☒ diluted  
mitigated naturally samples ☒ field tests ☒ photographs ☒ material  
placed in DER Shed ☒ (OHM job # /task#) covered with plastic  
OTHER INFO.: DER Contractor job # 7946

FIELD TEST results: See Section II ☒ verified initial info. details

SCALE OF INCIDENT: very minor minor ☒ moderate major  
FOLLOWUP 5/15/90-case referred to HW section for penalties & cost recovery from generator. (dumper uncertain)

VI. AGENCIES NOTIFIED: SWP EPA USCG DNR/FMP Fire Police  
PBCHD PBCDERM BCEQCB ☒ MDCDERM MCPHU SLCHD OCHD  
DOT Public Works GFC Other City of Ft. Lauderdale (Jim Brenenstein)  
305/492-7806

INVESTIGATOR(S): Jeff Tobergte JT <sup>4T</sup> Bob Kukleski Knox McKee  
Other dates 09/26, 0/28  
TIME SPENT: field office total hours attached  
ADD'L. INFO. attached ☒ See DER Shed File ☒ see file

JT:am/4

cc:

Emergency Response, DER/Tall. Alex Padva, Waste Prog. Admin.  
Local Program BCEQCB Don White, Water Prog. Admin.  
Scott Benyon, Dep. Asst. Sect. Paul Wierzbicki, HW Supervisor  
Other Shed file

MAY 25 1990,

Container Details

1. 1 black 55-gal. DM, "Waterban-R" by Lambert Corp. (Orlando, FL). On top (by hand): "Lambert Corp. 20 N. Coburn Ave., Orlando, FL." Also on top, a white sticker:

printed: } Lambert Corp.  
20 N. Coburn Ave.  
Orlando, FL  
305/841-2940

"44"

handwritten on sticker

typed: } Rinker Materials Corp.  
29 SW 33 St.  
Ft. Lauderdale, FL 33315

Contains: ~ 15 gal. clean, combustible liquid, appears to be mineral spirits.

2. 1 red 55-gal. DM, Lambert Corp. "64 RB Resin Core." It has the same sticker as #1, above. On the side, the following is typed on a faded label:

"67984"  
"440 gallons"  
"Sample #L-14-86/Batch # S-3229DL3"

Contains: ~ 2" of what appears to be rusty water.

3&4 } blue 5-gal. plastic containers, 1 has never been opened. Rochem  
"Metal Brite", "contains phosphoric acid." Rochem, N.Y.  
212/425-4780.

Contains: both are full, and contain  $H_3PO_4$ . pH 1-2.

5. 1 blue 5-gal. plastic container, Rochem "Sodium Hypochlorite." "Bleach handwritten on top; "Blend handwritten" on side.

Contains: full of clean, red transmission fluid.

6. 1 yellow, metal 5-gal. can, never opened. Rochem "Oil Spill Remover, Low Toxicity." Full.

Contains: diesel fuel base?

---

On 9/26, I collected a sample from each container (except #6), and labeled them 1-5 in the order above. I took photos, and cordoned the containers. Tom Dazey (Broward State Attorney's Office, 305/357-6953) appeared on scene. (Shortly before, a Ft. Lauderdale PD patrol car had stopped by while I was there.)

A nearby resident approached Tom and I, and said she first saw the drums on August 28 while walking her dog. She called Anita Allen (BCEQCB) shortly afterwards, and was told to call the City of Ft. Lauderdale, which she did. However, she said the containers were not removed, and she observed no activity until seeing my truck today (9/26). (Tom Dazey has her name and address.)

Then, Tom and I spoke to Charles Reed, owner of Karlynn Corp. Printing across the street at this cul-de-sac (200 SW 19 St., Ft. Lauderdale 33315, 305/462-0701). He said that before Labor Day (9/4), on a Saturday night he heard a "thump" and came out to see what happened. He saw a stake-bed truck (white or light color with a dark back) driving away. It was too dark and too far away to get more details. He noticed the drums. This same thing happened another Saturday night when some pallets and refrigerator were dumped by the same truck.

9/28/89

Using OHM Corp. (job #7946), the containers were removed and taken to the DER Shed. My samples were given to OHM, and OHM collected a sample from the yellow can (which had never been opened). The samples were numbered in

Page 71  
sequence from other samples of different drums which had also been handled on job #7946. The samples are:

OHM SAMPLE #

Container

09	black 55-gal. Lambert drum ✓
10	red 55-gal. Lambert drum ✓
11	blue Rochem Metal Brite jug
12	blue Rochem Metal Brite jug
13	blue Rochem hypochlorite jug
14	yellow Rochem Oil Spill Remover can

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Her husband is Fredrick J. Feickert

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818 SW 12 Court  
Ft. Lauderdale  
524-0158

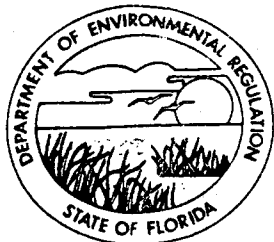
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JT:am/4





# Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406 • 407-964-9668

Bob Martinez, Governor

Dale Twachtmann, Secretary

John Shearer, Assistant Secretary  
Scott Benyon, Deputy Assistant Secretary

MAY 25 1990

## EMERGENCY RESPONSE INCIDENT REPORT

Final Report Date: 09/29/89

I. NOTIFICATION date: 09 / 25 / 89 Incident date/time: 08/89  
REPORTED by: Ft. Lauderdale Police Dept Phone:  
Affiliation: Fire Dept. Police ☒ Sheriff DOT FMP USCG  
EPA DER PBCHD PBCDERM BCEQCB MDCDERM MCPHU  
SLCHD OCHD GFC neighbor resident anonymous  
other

II. TYPE: Spill Fire Abandoned ☒ Dumping other  
Material(s): unknown ☒ acid ☒ alkali solvent ☒ paint pesticide  
herbicide gasoline diesel fuel jet fuel misc. fuel oil ☒  
gas/vapor misc. chem. ☒ other  
DETAILS See attached for drum details  
HAZARD(s): flammable combustible ☒ toxic corrosive ☒ oxidizer  
explosive reactive radioactive biohaz other none  
AMOUNT OR #: gal. lbs. 55-gal. drums 2 5-gal. containers 4  
other container/size other  
SOURCE/Case: container spill/leak tank spill/leak vehicle accident  
dumped ☒ other

III. LOCATION dead end at 201 SW 19 St., Ft. Lauderdale  
COUNTY: Palm Beach Broward ☒ Dade Martin St. Lucie Okeechobee  
RESPONSIBLE PARTY: (unknown) Linda Feickert (generator)  
Address Rt. 3 Box 607, Hulbert, Okla. 74441  
Phone (918) 459-0605 Contact L. Feickert

IV. AFFECTED AREAS: soil canal/ditch lake/pond storm drain air  
groundwater drinking wells nearby residential ☒ commercial area ☒  
vacant roadway ☒ beach parking lot farm other  
injuries

V. RESPONSE: DER asst. req'd. ☒ local agency lead fire extinguished  
spill absorbed/diked neutralized soil excavated booms/abs.pads  
leak stopped material overpacked/removed ☒ pumped vapors suppressed  
containers closed containers labeled area cordoned ☒ diluted  
mitigated naturally samples ☒ field tests ☒ photographs ☒ material  
placed in DER Shed ☒ (OHM job # /task#) covered with plastic  
OTHER INFO.: DER Contractor job # 7946

FIELD TEST results: See Section II ☒ verified initial info.  
details

SCALE OF INCIDENT: very minor minor ☒ moderate major  
FOLLOWUP 5/15/90-case referred to HW section for penalties & cost recovery from  
generator. (dumper uncertain)

VI. AGENCIES NOTIFIED: SWP EPA USCG DNR/FMP Fire Police  
PBCHD PBCDERM BCEQCB ☒ MDCDERM MCPHU SLCHD OCHD  
DOT Public Works GFC Other City of Ft. Lauderdale (Jim Brenenstein)  
305/492-7806

INVESTIGATOR(S): Jeff Tobergte JT ☒ Bob Kukleski Knox McKee  
Other dates 09/26, 0/28  
TIME SPENT: field office total hours attached  
ADD'L. INFO. attached ☒ See DER Shed File ☒ see file

JT:am/4

cc:

Emergency Response, DER/Tall. Alex Padva, Waste Prog. Admin.  
Local Program BCEQCB Don White, Water Prog. Admin.  
Scott Benyon, Dep. Asst. Sect. Paul Wierzbicki, HW Supervisor  
Other Shed file

MAY 25 1990

Container Details

1. 1 black 55-gal. DM, "Waterban-R" by Lambert Corp. (Orlando, FL). On top (by hand): "Lambert Corp. 20 N. Coburn Ave., Orlando, FL." Also on top, a white sticker:

printed: } Lambert Corp.  
20 N. Coburn Ave.  
Orlando, FL  
305/841-2940

"44"

handwritten on sticker

typed: } Rinker Materials Corp.  
29 SW 33 St.  
Ft. Lauderdale, FL 33315

Contains: ~ 15 gal. clean, combustible liquid, appears to be mineral spirits.

2. 1 red 55-gal. DM, Lambert Corp. "64 RB Resin Core." It has the same sticker as #1, above. On the side, the following is typed on a faded label:

"67984"  
"440 gallons"  
"Sample #L-14-86/Batch # S-3229DL3"

Contains: ~ 2" of what appears to be rusty water.

3&4 } blue 5-gal. plastic containers, 1 has never been opened. Rochem  
"Metal Brite", "contains phosphoric acid." Rochem, N.Y.  
212/425-4780.

Contains: both are full, and contain  $H_3PO_4$ . pH 1-2.

5. 1 blue 5-gal. plastic container, Rochem "Sodium Hypochlorite." "Bleach handwritten on top; "Blend handwritten" on side.

Contains: full of clean, red transmission fluid.

6. 1 yellow, metal 5-gal. can, never opened. Rochem "Oil Spill Remover, Low Toxicity." Full.

Contains: diesel fuel base?

---

On 9/26, I collected a sample from each container (except #6), and labeled them 1-5 in the order above. I took photos, and cordoned the containers. Tom Dazey (Broward State Attorney's Office, 305/357-6953) appeared on scene. (Shortly before, a Ft. Lauderdale PD patrol car had stopped by while I was there.)

A nearby resident approached Tom and I, and said she first saw the drums on August 28 while walking her dog. She called Anita Allen (BCEQCB) shortly afterwards, and was told to call the City of Ft. Lauderdale, which she did. However, she said the containers were not removed, and she observed no activity until seeing my truck today (9/26). (Tom Dazey has her name and address.)

Then, Tom and I spoke to Charles Reed, owner of Karlynn Corp. Printing across the street at this cul-de-sac (200 SW 19 St., Ft. Lauderdale 33315, 305/462-0701). He said that before Labor Day (9/4), on a Saturday night he heard a "thump" and came out to see what happened. He saw a stake-bed truck (white or light color with a dark back) driving away. It was too dark and too far away to get more details. He noticed the drums. This same thing happened another Saturday night when some pallets and refrigerator were dumped by the same truck.

9/28/89

Using OHM Corp. (job #7946), the containers were removed and taken to the DER Shed. My samples were given to OHM, and OHM collected a sample from the yellow can (which had never been opened). The samples were numbered in

sequence from other samples from different drums which had also been handled on job #7946. The samples are:

OHM SAMPLE #Container

09  
10  
11  
12  
13  
14

black 55-gal. Lambert drum  
red 55-gal. Lambert drum  
blue Rochem Metal Brite jug  
blue Rochem Metal Brite jug  
blue Rochem hypochlorite jug  
yellow Rochem Oil Spill Remover can

- 10/19/89 I faxed drum information to DER/Orlando for checking with Lambert Corp.
- 10/23/89 DER/Orlando faxed invoice information to me which shows that container #1 ("Waterban R") was shipped to Rinker (29 SW 33 St.) on 12/1/86 via invoice #21637. Container #2 (#64 RB Resin?) was also shipped to that Rinker facility on 5/15/86, via invoice #19477.
- 11/07/89 Tom Dazey (BSAO) and I visited Richie Sampiere (Plant Mgr., Rinker). He said he will check his records to see whom those drums had been sold to; the "Waterban R" is a rare material.
- 11/08/89 Tom Dazey said he got a call from Rinker. On 10/10/86, the "64 RB Resin Cure" was sold to Linda Feickert; the "Waterban R" was sold to her on 01/26/87. Rinker files give her addresses as:
- mail: 919 Cordova Rd., Ft. Lauderdale  
prior: 1334 Ponce DeLeon Dr., Ft. Lauderdale  
shipped to: 519 SE 32 Ct., Ft. Lauderdale  
phone: 467-0551  
Her husband is Fredrick J. Feickert
- 11/16/89 I drove to 519 SE 32 Ct., which is very close to Rinker. No Feickerts are there. A sign says "available, Larry Rowe Realtors, 763-6764." I drove past 919 Cordova Rd., it is a large house, apparently of moderate to high wealth.
- 12/01/89 I called Larry Rowe Realtors. The warehouse at 519 SE 32 Ct. is owned by Linda Feickert, in Oklahoma (918/772-2341). There was no answer after repeated calls to that number.
- 01/04/89 I visited Larry Rowe Realtors. They gave me more information on Linda Feickert: 918/459-0605 (a new restaurant in Tulsa, Okla.); Rt. 3, Box 607, Hulbert, OK 74441. I called Linda; she said she moved out of Florida about one year ago. She still owns the warehouse at 519 SE 32 Ct., and had a tenant that she had to evict. The tenant's name was Frank Cocchiola, of Embassy Limousine Service. Mr. Cocchiola also outfitted boats (seats, windows, etc.), and lives in Sunrise. After the tenant was evicted, Linda had to hire a trash hauler to remove trash left behind by the tenant; Linda said she did not know hazardous materials were present. Linda said the Rochem materials were not hers, but probably the tenant's materials. Linda said the Lambert materials were hers, when she had the warehouse built; the Lambert drums were located in the same bay. Linda said she will search her records to get the information on the trash hauler.
- 01/30/90 Mr. Feickert called me. He paid \$360 to Rav Kohl (Kohl Trash Hauling) in Ft. Lauderdale in July or August (he would have to re-check for the exact date).
- 02/21/90 The phone book does not list Kohl Trash Hauling, but does have:

Ray Kohl, Jr.  
818 SW 12 Court  
Ft. Lauderdale  
524-0158

I drove past this address; it is a duplex and nobody appeared to be home. This residence is located about 1-1.5 miles from the site where the containers were abandoned. I dialed the above number; an answering service said this is the number for Ray Kohl Trash Hauling.

- 04/19/90 Bruce Lawless (GFC) and I talked to Ray Kohl. Kohl remembers cleaning out the bay in question, but he does not remember any drums or 5-gal. containers. (He said he does not haul such items.) He has done work for Feickert in the past. About two months ago, he talked to Linda Feickert; she had called him about this matter.
- 05/15/90 Ray Kohl is the most likely dumper in this case, but we are not able to prove it at this time. Nevertheless, Linda Feickert has violated 40 CFR 261.5(g) for failing to ensure delivery of hazardous waste to a proper facility. In addition, DER contractor costs for analyzing the mineral spirits, transmission fluid and diesel/oil spill remover containers was \$1455. (Note: total contractor costs are actually higher but this job #7946 also included other unrelated drums from other sites; the above lab analysis is the only item specifically billed and attributable to this site.) Therefore, this matter is referred to the DER HW Section for enforcement action and cost recovery against Feickert.

JT:am/4



State of Florida  
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing to Other Than The Addressee

1	_____	_____
2	_____	_____
3	_____	_____
4	_____	_____

# Interoffice Memorandum

TRANSMITTAL FORM FOR RE-SUBMITTING  
DRAFT DOCUMENT FOR OGC REVIEW

TO: OGC Attorney Assigned: Francine Folkes  
Office of General Counsel

FROM: Ginny Hurley ES I, SED-WPB

DATE: 8-14-90

The attached document is being forwarded to OGC for further review by the Attorney assigned to this case. This document has already been entered into the Legal Case Tracking System.

Created June 1990

STATE OF FLORIDA

DEPARTMENT OF ENVIRONMENTAL REGULATION

STATE OF FLORIDA DEPARTMENT	:	IN THE OFFICE OF THE
OF ENVIRONMENTAL REGULATION,	:	<u>SOUTHEAST FLORIDA DISTRICT</u>
	:	
Complainant,	:	
	:	
vs.	:	
	:	OGC Case No. 90-1101
LINDA FEICKERT,	:	
	:	
Respondent.	:	
-----	:	

NOTICE OF VIOLATION AND  
ORDERS FOR CORRECTIVE ACTION

TO: Ms. Linda Feickert  
Rt. 3, Box 607  
Hulbert, OK 74441

Certified Mail Number \_\_\_\_\_

Pursuant to the authority of Section 403.121(2), Florida Statutes (F.S.), and Florida Administrative Code (F.A.C.) Rule 17-103.110(1), the State of Florida Department of Environmental Regulation ("Department") gives notice to Linda Feickert ("Respondent") of the following findings of fact and conclusions of law with respect to violations of Chapter 403, F.S., and Title 17.

FINDINGS OF FACT

PARAGRAPHS APPLICABLE TO ALL COUNTS

1. The Department is the administrative agency of the State of Florida which has the authority to administer and enforce the provisions of Chapter 403, F.S., and the rules promulgated thereunder in F.A.C. Title 17.
2. Respondent Linda Feickert is an Oklahoma resident that owns property located at 519 S.E. 32nd Ct., Ft. Lauderdale, FL.
3. On September 26, 1989, the Emergency Response Section of the Department's Southeast Florida District responded to an incident involving two 55-gallon drums and four 5-gallon containers found abandoned on property located at 201 S.W. 19th St., Ft. Lauderdale, FL. Some of the drums contained hazardous waste as defined in 40 Code of Federal Regulations (CFR) Part 261. A subsequent investigation by

the Department traced the origin of the drums to a warehouse at 519 S.E. 32nd Ct., Ft. Lauderdale, FL, owned by the Respondent. The emergency response incident and investigation report is attached hereto as Exhibit I.

4. On September 28, 1989, the Department's hazardous waste contractor, OHM Corporation, sampled and removed the drums and containers to the Department's hazardous waste storage shed located in West Palm Beach, Florida.

5. On November 8, 1989, the investigation revealed that containers #1 and #2 had been shipped to Rinker Materials Corporation, 29 S.W. 33rd St., Ft. Lauderdale, FL. Rinker later confirmed that the containers had been shipped to a warehouse at 519 S.E. 32nd Ct., Ft. Lauderdale, owned by Linda Feickert of Hulbert, OK.

6. On January 4, 1990, the Department called Linda Feickert at her place of business in Oklahoma. Ms. Feickert confirmed that she still owned the warehouse at the above referenced address and that at least two of the abandoned drums belonged to her. Per Ms. Feickert the four remaining containers probably belonged to the previous tenant.

7. On January 30, 1990, Mr. Fredrick Feickert informed the Department that he had paid \$360.00 to Mr. Ray Kohl of Kohl's Trash Hauling to dispose of trash left by the tenant at 519 S.E. 32nd Ct.

8. On April 19, 1990, the Department contacted Mr. Kohl regarding work he performed for the Feickerts. Mr. Kohl confirmed that he had cleaned out the warehouse bay at the above referenced address at the request of Ms. Feickert. However, he had no recollection of any drums or five-gallon containers.

COUNT I  
Improper Disposal of Hazardous Wastes

9. Respondent failed to ensure proper delivery of hazardous waste to a permitted Treatment, Storage, or Disposal Facility and disposed of hazardous waste in a manner not authorized by the Department.

COUNT II  
Violation of Hazardous Waste Management Rules

10. Respondent violated Department rules governing management of hazardous waste by:

- a) Failing to use a State certified hazardous waste transporter to transport hazardous waste.
- b) Failing to use the manifest system when shipping hazardous waste off-site.
- c) Failing to label all drums containing hazardous waste with the words "Hazardous Waste".

COUNT III  
Creating an Imminent Hazard

11. Respondent is responsible for the unauthorized disposal of hazardous waste on a dead end roadway in a residential/commercial neighborhood, as referenced in Exhibit I. The illegally disposed hazardous waste presented an imminent hazard to the integrity of the State's groundwater resources and to the public health, safety and welfare.

COUNT IV  
Improper Disposal of Solid Waste

12. The hazardous wastes which were abandoned are solid wastes as defined in 403.703(9) and Rule 17-730.030 F.A.C. The type of waste in each drum is identified on page 2 of the Emergency Response Incident Report attached hereto as Exhibit I.

COUNT V  
Costs and Expenses

13. The Department has incurred expenses to date while investigating and abating this matter in an amount of not less than \$1955.00.

CONCLUSIONS OF LAW

The Department has evaluated the Findings of Fact with regard to the requirements of Chapter 403, Parts I and IV, F.S.; F.A.C. Chapter 17-730; 40 Code of Federal Regulations (CFR) 260 through 266. Based on the foregoing facts the Department has made the following Conclusions of Law:

14. Respondent is a person within the meaning of Sections 403.031 and 403.703, F.S.



15. The provisions of 40 CFR 260.10 and 40 CFR Parts 260 through 266 are adopted by reference in F.A.C. Rules 17-730, Parts I-IV.

16. Respondent's operation is a hazardous waste facility as defined in Section 403.703(22), F.S., F.A.C. Rule 17-730.02 and 40 CFR 260.10.

17. The facts related in COUNT I constitute a violation of Section 403.727 and 403.722, F.S. which prohibits disposal of hazardous waste at a location other than a permitted treatment, storage, and disposal facility.

18. The facts related in COUNT II constitute violations of Section 403.727 and Rules 17-730, Parts I-IV F.A.C., regarding management of hazardous wastes.

19. The facts related in COUNT III constitute a violation of 403.726 and 403.727 F.S. which prohibit any person from causing or allowing an imminent hazard and which authorizes the Department to take whatever corrective measures necessary to abate such a hazard.

20. The facts related in COUNT IV constitute a violation of Section 403.708 and Rule 17-701.040, F.A.C. which prohibit the disposal of solid wastes in a manner not approved by the Department and which specifically prohibits placement and discharge of solid wastes in or on the land within the state.

21. The costs and expenses related in COUNT V are reasonable costs and expenses incurred by the State of Florida while investigating this matter, which are recoverable pursuant to Section 403.141(1), F.S.

#### ORDERS FOR CORRECTIVE ACTION

The Department has alleged that the activities related in the Findings of Fact constitute violations of Florida law. The Orders for Corrective Action state what you, Respondent, must do in order to correct and redress the violations alleged on this notice.

The Department will adopt the Orders for Corrective Action as part of its Final Order in this case unless Respondent files a timely petition for a formal hearing or informal proceeding, pursuant to Section 403.121, F.S. and F.A.C. Rule 17-103.110 (see Notice of Rights). If Respondent fails to comply with the corrective actions ordered by the Final Order, the Department is authorized to file suit seeking judicial enforcement of the Department's order pursuant to Sections 120.69 and 403.131, F.S.

Pursuant to the authority of Section 403.061(8) and 403.121, F.S. and F.A.C. Rule 17-103.110, the Department proposes to adopt in its Final Order in this case the following specific corrective actions which will redress the alleged violations:

22. Respondent shall forthwith comply with all Department rules regarding hazardous waste management. Respondent shall correct and redress all violations listed in the Conclusions of Law. Respondent shall comply with all applicable sections in F.A.C. Chapter 17-730 and 40 CFR, Parts 260-268.

23. Within 45 days, Respondent shall submit to the Department a report certifying compliance with paragraph 22 of this notice.

24. Within thirty days, Respondent shall make payment to the Department for costs and expenses in the amount of \$1955.00. Payment shall be made by certified check or money order payable to the "State of Florida Department of Environmental Regulation," and shall be sent to the Department's Southeast Florida District Office, 1900 South Congress Avenue, Suite A, West Palm Beach, Florida 33406.

#### NOTICE OF RIGHTS

1. Respondent has the right to a formal administrative hearing pursuant to Section 120.57(1), F.S., if Respondent disputes issues of material fact raised by this Notice of Violation and Orders for Corrective Action ("Notice"). At a formal hearing, Respondent will have the opportunity to be represented by counsel, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of fact and orders, and to file exceptions to any order or hearing officer's recommended order.

2. Respondent has the right to an informal administrative proceeding pursuant to Section 120.57(2), F.S., if Respondent does not dispute issues of material fact raised by this Notice. If an informal proceeding is held, Respondent will have the opportunity to be represented by counsel, to present to the agency written or oral evidence in opposition to the Department's proposed action, or to present a written statement challenging the grounds upon which the Department is justifying its proposed action.

3. Respondent may request an informal conference with the Department pursuant to F.A.C. Rule 17-103.090 in order to resolve this matter promptly and amicably. Respondent's rights will not be adjudicated at an informal conference, and the right to a formal hearing or informal proceeding will not be affected by requesting and participating in an informal conference.

4. If Respondent desires a formal hearing or an informal proceeding, Respondent must file a written responsive pleading entitled "Petition for Administrative Proceeding" within twenty (20) days of receipt of this Notice or within ten (10) days of any timely requested informal conference held pursuant to paragraph 5 below. The petition must be in the form required by F.A.C., chapter 17-103 and by F.A.C. Rule 28-5.201. A petition is filed when it is received by the Department's Office of General Counsel, 2600 Blainstone Road, Tallahassee, Florida 32399-2400. A petition must specifically request a formal hearing or an informal proceeding, it must admit or deny each Findings of Fact of this Notice, and must state any defenses upon which Respondent relies. If Respondent lacks knowledge of a particular allegation, Respondent must so state, and that statement will operate as a denial.

5. If Respondent desires an informal conference, Respondent must file a written "Request for an Informal Conference" within ten (10) days of receipt of this Notice. The request must be made to the person indicated on the last page of this Notice. The informal conference will be held within ten days of receipt of the request. If no resolution of this matter results from the informal conference, Respondent has the right to file a petition for a formal hearing or informal proceeding within ten days of the date the conference is held.

6. Respondent will waive the right to a formal hearing or an informal proceeding if a petition is not filed with the Department within twenty days of the date of this Notice or ten days of the date of an informal conference if one is held. These time limits may be varied only by written consent of the Department.

7. The allegations of this Notice together with the Orders for Corrective Action will be adopted by the Department in a Final Order if Respondent fails to file a timely petition for a formal hearing or an informal proceeding, pursuant to Section 403.860, F.S., and F.A.C. Rule 17-103.110. A Final Order will constitute a full and final adjudication of matters alleged in the Notice of Violation and Orders for Corrective Action.

8. If the Respondent fails to comply with the Final Order, the Department is authorized to file suit in circuit court seeking a mandatory injunction to compel compliance with the Order, pursuant to Section 120.69 and 403.727, F.S. The Department may also seek to recover damages, all costs of litigation including reasonable attorney's fees and expert witness fees, and civil penalties of not more than \$50,000 per day for each day that Respondent has failed to comply with the Final Order.

Linda Feickert  
Notice of Violation  
Page 7 of 8

9. Litigation will be avoided if Respondent immediately complies with the Orders for Corrective Actions. This matter may be resolved if the Department and Respondent enter into a Consent Order, in accordance with F.A.C. Rule 17-103.110(3), upon such terms and conditions as may be mutually agreeable. In this regard, the Department has entered into an agreement with the United States Environmental Protection Agency ("EPA") regarding cases involving violations of hazardous waste rules. The agreement requires the penalties to be computed on the basis of the EPA Resource Conservation and Recovery Act Civil Penalty Policy dated May 8, 1984, a copy of which is available upon request from the Department. Any settlement between the Department and the Respondent concerning violations set forth herein must include the payment of penalties consistent with this policy. Should the parties not be able to settle this action, the Department may voluntarily dismiss this NOV and seek judicial imposition of penalties in circuit court, file a separate and independent action in court for imposition of civil penalties, or refer the violations to EPA.

10. The Department is not barred by issuance of this Notice from maintaining an independent action in circuit court with respect to alleged violations. If such action is warranted, the Department may seek injunctive relief, damages, civil penalties of not more than \$50,000 per day, and all costs of litigation.

11. Copies of Department rules referenced in this Notice may be examined at any Department office or may be obtained by written request to person listed on the last page of this Notice.

DATED THIS \_\_\_\_\_ OF \_\_\_\_\_, 1990

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION

-----  
J. Scott Benyon  
Deputy Assistant Secretary  
1900 South Congress Avenue, Suite A  
West Palm Beach, Florida 33406

Linda Feickert  
Notice of Violation  
Page 8 of 8

Copies furnished to:

Office of General Counsel, DER, Tallahassee  
Broward County Environmental Quality Control Board  
File, Reporting Coordinator  
West Palm Beach, DER Files

A petition for hearing must be filed with:

OFFICE OF GENERAL COUNSEL  
State of Florida Department of Environmental Regulation  
2600 Blairstone Road  
Tallahassee, Florida 32399-2400  
Telephone: 904/488-9730

A request for an informal conference must be made to:

Alexander Padva, Ph.D.  
Waste Programs Administrator  
Southeast Florida District  
State of Florida Department of Environmental Regulation  
1900 South Congress Avenue, Suite A  
West Palm Beach, Florida 33406  
Telephone: 407/964-9668

State of Florida  
DEPARTMENT OF ENVIRONMENTAL REGULATION

# DISTRICT ROUTING SLIP

TO: Ginny Hurley

DATE: 7/19/90

CC  
TO:

	<b>PENSACOLA</b>	<b>Northwest District</b>	
	<b>PANAMA CITY</b>	<b>Northwest District Branch Office</b>	
	<b>TALLAHASSEE</b>	<b>Northwest District Branch Office</b>	
	<b>TAMPA</b>	<b>Southwest District</b>	
	<b>ORLANDO</b>	<b>Central Florida District</b>	
	<b>MELBOURNE</b>	<b>Central Florida District Branch Office</b>	
	<b>JACKSONVILLE</b>	<b>Northeast District</b>	
	<b>GAINESVILLE</b>	<b>Northeast District Branch Office</b>	
	<b>FORT MYERS</b>	<b>South Florida District</b>	
	<b>PUNTA GORDA</b>	<b>South Florida District Branch Office</b>	
	<b>MARATHON</b>	<b>South Florida District Branch Office</b>	
<input checked="" type="checkbox"/>	<b>WEST PALM BEACH</b>	<b>Southeast Florida District</b>	
	<b>PORT ST. LUCIE</b>	<b>Southeast Florida District Branch Office</b>	

Reply Optional ☐  
 Date Due: \_\_\_\_\_

Reply Required ☐  
 Date Due: \_\_\_\_\_

Info Only ☐

COMMENTS:

*Draft N.O.V. - Linda Feichter*  
*OGC # 90-1101*

RECEIVED

'90 JUL 23 AM 10 15

DEPARTMENT OF ENVIRONMENTAL REGULATION  
WEST PALM BEACH

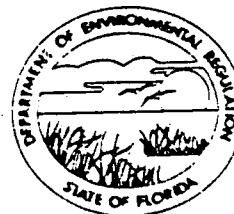
SC

FROM:

*Francine Folkes*

TEL: *278-9730*

State of Florida  
DEPARTMENT OF ENVIRONMENTAL REGULATION



# Interoffice Memorandum

LEGAL CASE TRACKING SYSTEM  
ENFORCEMENT CASE ENTRY FORM

For Routing To Other Than The Addressee

To: _____	Location: _____
To: _____	Location: _____
To: _____	Location: _____
From: _____	Date: <u>9</u> 1990

**RECEIVED**

TO: Larry Morgan  
Office of General Counsel

FROM: Ginny Hurley

Dept. of Environmental Reg  
Office of General Counsel

DATE: 7-5-90

This form accompanied by:  
\_\_\_\_\_ Draft Consent Order X Draft N.O.V. \_\_\_\_\_ Case Report

The following information may be used for entry in the Legal Case Tracking System.

Case Name: Linda Feickert

Case Alias: \_\_\_\_\_

Responsible Office: SED County Palm Beach

District Contact: Ginny Hurley

Program Area: Hw 2nd Program Area \_\_\_\_\_

Date Compliance/Enforcement Case Opened by District \_\_\_\_\_

Permit/Application Number: \_\_\_\_\_

Facility ID Number: Non-notifier

Comments: \_\_\_\_\_

-----FOR OGC USE ONLY-----  
OGC NUMBER: 90-1101 Date Case Opened: \_\_\_\_\_

OGC ATTORNEY ASSIGNED: Francine Ffolkes

Send Copies To:

- ☒ Originator
- ☐ Wetland Resource Management
- ☐ Local Govt. Wastewater Financial Assistance
- ☐ Air Quality Planning & Regulation
- ☐ Waste Planning Regulation
- ☐ Leigh O'Shields State Lands Management

- ☐ Mr. Ron Silver, U.S. Army Corps Surface Water Management Groundwater Protection Water Facilities Planning & Regulation Waste Cleanup
- ☐ (Other)
- ☐ (Other)

STATE OF FLORIDA

DEPARTMENT OF ENVIRONMENTAL REGULATION

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION,

Complainant,

vs.

LINDA FEICKERT,

Respondent.

IN THE OFFICE OF THE  
SOUTHEAST FLORIDA DISTRICT

OGC Case No. ~~90~~

90-1101

7/13/90

7/19/90  
double space  
final legal  
document  
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NOTICE OF VIOLATION AND  
ORDERS FOR CORRECTIVE ACTION

TO: Ms. Linda Feickert  
Rt. 3, Box 607  
Hulbert, OK 74441

Certified Mail Number \_\_\_\_\_

Pursuant to the authority of Section 403.121(2), Florida Statutes (F.S.), and Florida Administrative Code (F.A.C.) Rule 17-103.110(1), the State of Florida Department of Environmental Regulation ("Department") gives notice to Linda Feickert ("Respondent") of the following findings of fact and conclusions of law with respect to violations of Chapter 403, F.S., and Title 17.

FINDINGS OF FACT

PARAGRAPHS APPLICABLE TO ALL COUNTS

1. The Department is the administrative agency of the State of Florida which has the authority to administer and enforce the provisions of Chapter 403, F.S., and the rules promulgated thereunder in F.A.C. Title 17.

2. Respondent Linda Feickert is an Oklahoma resident that owns property located at 519 S.E. 32nd Ct., Ft. Lauderdale, FL.

3. On September 26, 1989, the Emergency Response Section of the Department's Southeast Florida District responded to an incident involving two 55-gallon drums and four 5-gallon containers found abandoned on property located at 201 S.W. 19th St., Ft. Lauderdale, FL. Some of the drums contained hazardous waste as defined in 40 Code of Federal Regulations (CFR) Part 261. A subsequent investigation by



Linda Feickert  
Notice of Violation  
Page 2 of 8

the Department traced the origin of the drums to a warehouse at 519 S.E. 32nd Ct., Ft. Lauderdale, FL, owned by the Respondent. The emergency response incident and investigation report is attached hereto as Exhibit I.

4. On September 28, 1989, the Department's hazardous waste contractor, OHM Corporation, sampled and removed the drums and containers to the Department's hazardous waste storage shed located in West Palm Beach, Florida.

✓ 5. On November 8, 1989, the investigation *Materials Corp.* revealed that containers #1 and #2 had been shipped to Rinker, 29 S.W. 33rd St., Ft. Lauderdale, FL. Rinker later confirmed that the containers had been shipped to a warehouse at 519 S.E. 32nd Ct., Ft. Lauderdale, owned by Linda Feickert of Hulbert, OK.

6. On January 4, 1990, the Department called Linda Feickert at her place of business in Oklahoma. Ms. Feickert confirmed that she still owned the warehouse at the above referenced address and that at least two of the abandoned drums belonged to her. Per Ms. Feickert the four remaining containers probably belonged to the previous tenant.

*Friedrich*  
7. On January 30, 1990, Mr. Feickert informed the Department that he had paid \$360.00 to Mr. Ray Kohl of Kohl's Trash Hauling to dispose of trash left by the tenant at 519 S.E. 32nd Ct.

8. On April 19, 1990, the Department contacted Mr. Kohl regarding work he performed for the Feickerts. Mr. Kohl confirmed that he had cleaned out the warehouse bay at the above referenced address at the request of Ms. Feickert. However, he had no recollection of any drums or five-gallon containers.

COUNT I  
Improper Disposal of Hazardous Wastes

✓ 9. Respondent ~~has~~ failed to ensure proper delivery of hazardous waste to a permitted Treatment, Storage, or Disposal Facility and ~~have~~ disposed of hazardous waste in a manner not authorized by the Department.

COUNT II  
Violation of Hazardous Waste Management Rules

✓ 10. Respondent ~~has~~ violated Department rules governing management of hazardous waste by:

- a) Failing to use a State certified hazardous waste transporter to transport hazardous waste.
- b) Failing to use the manifest system when shipping hazardous waste off-site.
- c) Failing to label all drums containing hazardous waste with the words "Hazardous Waste".

COUNT III  
Creating an Imminent Hazard

11. Respondents are responsible for the unauthorized disposal of hazardous waste. The illegally disposed hazardous waste presented an imminent hazard to the integrity of the State's resources and to the public health, safety and welfare.

*too general what particular wastes in the drums presented at the location where they were found*

COUNT IV  
Improper Disposal of Solid Waste

12. The hazardous wastes which were abandoned are solid wastes as defined in 403.703(9) and Rule 17-730.030 F.A.C.

*identify in a table format what was in each drum*

COUNT V  
Costs and Expenses

13. The Department has incurred expenses to date while investigating this matter in an amount of not less than \$1955.00.

*and abating*

CONCLUSIONS OF LAW

The Department has evaluated the Findings of Fact with regard to the requirements of Chapter 403, Parts I and IV, F.S.; F.A.C. Chapter 17-730; 40 Code of Federal Regulations (CFR) 260 through 266. Based on the foregoing facts the Department has made the following Conclusions of Law:

14. Respondent is a person within the meaning of Sections 403.031 and 403.703, F.S.

15. The provisions of 40 CFR 260.10 and 40 CFR Parts 260 through 266 are adopted by reference in F.A.C. Rules 17-730, Parts I-IV.

*if you can't support it with facts then delete the Count*

*need facts to support this conclusion*

*This count needs additional facts allegations*

Linda Feickert  
Notice Of Violation  
Page 4 of 8

16. Respondent's operation is a hazardous waste facility as defined in Section 403.703(22), F.S., F.A.C. Rule 17-730.02 and 40 CFR 260.10.

17. The facts related in COUNT I constitute a violation of Section 403.727 and 403.722, F.S. which prohibits disposal of hazardous waste at a location other than a permitted treatment, storage, and disposal facility.

✓ 18. The facts related in COUNT II constitute violations of Section 403.727 and Rules 17-730, Parts I-IV F.A.C. ~~which make it a violation of the rules~~ regarding management of hazardous wastes.

19. The facts related in COUNT III constitute a violation of 403.726 and 403.727 F.S. which prohibit any person from causing or allowing an imminent hazard and which authorizes the Department to take whatever corrective measures necessary to abate such a hazard.

*need more facts in Count III*

✓ 20. The facts related in COUNT IV constitute a violation of Section 403.708 and Rule 17-701.040, F.A.C. which prohibit the disposal of solid wastes in a manner not approved by the Department

and which specifically prohibits placement and discharge of solid wastes in or on the land within the state.

21. The costs and expenses related in COUNT V are reasonable costs and expenses incurred by the State of Florida while investigating this matter, which are recoverable pursuant to Section 403.141(1), F.S.

#### ORDERS FOR CORRECTIVE ACTION

The Department has alleged that the activities related in the Findings of Fact constitute violations of Florida law. The Orders for Corrective Action state what you, Respondent, must do in order to correct and redress the violations alleged on this notice.

The Department will adopt the Orders for Corrective Action as part of its Final Order in this case unless Respondent files a timely petition for a formal hearing or informal proceeding, pursuant to Section 403.121, F.S. and F.A.C. Rule 17-103.110 (see Notice of Rights). If Respondent fails to comply with the corrective actions ordered by the Final Order, the Department is authorized to file suit seeking judicial enforcement of the Department's order pursuant to Sections 120.69 and 403.131, F.S.

Pursuant to the authority of Section 403.061(8) and 403.121, F.S. and F.A.C. Rule 17-103.110, the Department proposes to adopt in its Final Order in this case the following specific corrective actions which will redress the alleged violations:

Specify what they need to comply with when this is stored in their warehouse and needs to be manifested per manifest facility etc. 22. Respondent shall forthwith comply with all Department rules regarding hazardous waste management. Respondent shall correct and redress all violations listed in the Conclusions of Law. Respondent shall comply with all applicable sections in F.A.C. Chapter 17-730 and 40 CFR, Parts 260-268.

23. Within 45 days, Respondent shall submit to the Department a report certifying compliance with paragraph 22 of this notice.

24. Within thirty days, Respondent shall make payment to the Department for costs and expenses in the amount of \$1955.00. Payment shall be made by certified check or money order payable to the "State of Florida Department of Environmental Regulation," and shall be sent to the Department's Southeast Florida District Office, 1900 South Congress Avenue, Suite A, West Palm Beach, Florida 33406.

#### NOTICE OF RIGHTS

1. Respondent has the right to a formal administrative hearing pursuant to Section 120.57(1), F.S., if Respondent disputes issues of material fact raised by this Notice of Violation and Orders for Corrective Action ("Notice"). At a formal hearing, Respondent will have the opportunity to be represented by counsel, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of fact and orders, and to file exceptions to any order or hearing officer's recommended order.

2. Respondent has the right to an informal administrative proceeding pursuant to Section 120.57(2), F.S., if Respondent does not dispute issues of material fact raised by this Notice. If an informal proceeding is held, Respondent will have the opportunity to be represented by counsel, to present to the agency written or oral evidence in opposition to the Department's proposed action, or to present a written statement challenging the grounds upon which the Department is justifying its proposed action.

3. Respondent may request an informal conference with the Department pursuant to F.A.C. Rule 17-103.090 in order to resolve this matter promptly and amicably. Respondent's rights will not be adjudicated at an informal conference, and the right to a formal hearing or informal proceeding will not be affected by requesting and participating in an informal conference.

✓  
✓  
4. If Respondent desires a formal hearing or an informal proceeding, Respondent must file a written responsive pleading (20) entitled "Petition for Administrative Proceeding" within twenty days of receipt of this Notice or within ten days of any timely requested informal conference held pursuant to paragraph 5 below. The petition must be in the form required by F.A.C., chapter 17-103 and by F.A.C. Rule 28-5.201. A petition is filed when it is received by the Department's Office of General Counsel, 2600 Blairstone Road, Tallahassee, Florida 32399-2400. A petition must specifically request a formal hearing or an informal proceeding, it must admit or deny each Findings of Fact of this Notice, and must state any defenses upon which Respondent relies. If Respondent lacks knowledge of a particular allegation, Respondent must so state, and that statement will operate as a denial.

✓  
5. If Respondent desires an informal conference, Respondent must file a written "Request for an Informal Conference" within ten days of receipt of this Notice. The request must be made to the person indicated on the last page of this Notice. The informal conference will be held within ten days of receipt of the request. If no resolution of this matter results from the informal conference, Respondent has the right to file a petition for a formal hearing or informal proceeding within ten days of the date the conference is held. (10)

6. Respondent will waive the right to a formal hearing or an informal proceeding if a petition is not filed with the Department within twenty days of the date of this Notice or ten days of the date of an informal conference if one is held. These time limits may be varied only by written consent of the Department.

7. The allegations of this Notice together with the Orders for Corrective Action will be adopted by the Department in a Final Order if Respondent fails to file a timely petition for a formal hearing or an informal proceeding, pursuant to Section 403.860, F.S., and F.A.C. Rule 17-103.110. A Final Order will constitute a full and final adjudication of matters alleged in the Notice of Violation and Orders for Corrective Action.

✓  
403.721 8. If the Respondent fails to comply with the Final Order, the Department is authorized to file suit in circuit court seeking a mandatory injunction to compel compliance with the Order, pursuant to Section 120.69 and ~~403.860~~ F.S. The Department may also seek to recover damages, all costs of litigation including reasonable attorney's fees and expert witness fees, and civil penalties of not more than \$50,000 per day for each day that Respondent has failed to comply with the Final Order.

Linda Feickert  
Notice of Violation  
Page 7 of 8

9. Litigation will be avoided if Respondent immediately complies with the Orders for Corrective Actions. This matter may be resolved if the Department and Respondent enter into a Consent Order, in accordance with F.A.C. Rule 17-103.110(3), upon such terms and conditions as may be mutually agreeable. In this regard, the Department has entered into an agreement with the United States Environmental Protection Agency ("EPA") regarding cases involving violations of hazardous waste rules. The agreement requires the penalties to be computed on the basis of the EPA Resource Conservation and Recovery Act Civil Penalty Policy dated May 8, 1984, a copy of which is available upon request from the Department. Any settlement between the Department and the Respondent concerning violations set forth herein must include the payment of penalties consistent with this policy. Should the parties not be able to settle this action, the Department may voluntarily dismiss this NOV and seek judicial imposition of penalties in circuit court, file a separate and independent action in court for imposition of civil penalties, or refer the violations to EPA.

10. The Department is not barred by issuance of this Notice from maintaining an independent action in circuit court with respect to alleged violations. If such action is warranted, the Department may seek injunctive relief, damages, civil penalties of not more than \$50,000 per day, and all costs of litigation.

11. Copies of Department rules referenced in this Notice may be examined at any Department office or may be obtained by written request to person listed on the last page of this Notice.

DATED THIS \_\_\_\_\_ OF \_\_\_\_\_, 1990

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION

---

J. Scott Benyon  
Deputy Assistant Secretary  
1900 South Congress Avenue, Suite A  
West Palm Beach, Florida 33406

Linda Feickert  
Notice of Violation  
Page 8 of 8

Copies furnished to:

Office of General Counsel, DER, Tallahassee  
Broward County Environmental Quality Control Board  
File, Reporting Coordinator  
West Palm Beach, DER Files

A petition for hearing must be filed with:

OFFICE OF GENERAL COUNSEL  
State of Florida Department of Environmental Regulation  
2600 Blairstone Road  
Tallahassee, Florida 32399-2400  
Telephone: 904/488-9730

A request for an informal conference must be made to:

Alexander Padva, Ph.D.  
Waste Programs Administrator  
Southeast Florida District  
State of Florida Department of Environmental Regulation  
1900 South Congress Avenue, Suite A  
West Palm Beach, Florida 33406  
Telephone: 407/964-9668

of Deviation from Required	
Major	Moderate
\$25,000	\$19,999
to	to
\$20,000	\$15,000
\$10,999	\$7,999
to	to
\$0,000	\$5,000
\$2,999	\$1,499
to	to
\$1,500	\$500

Potential For  
 Harm;  
 Extent of  
 Deviation;  
 Revised  
 TOTAL PERMITS;



RCRA PENALTY ASSESSMENT WORK SHEET

CASE NAME: Linda Feickert  
VIOLATION VIOLATED: 40 CFR 261.5 CESQG Failure to ensure proper disposal & delivery to a proper facility.

Assessments for each violation should be determined on separate worksheets and totalled on the RCRA Penalty Summary form.

Part I - Seriousness of Violation Penalty

- 1. Potential for Harm: Minor
- 2. Extent of Deviation: Major Minor
- 3. Note matrix cell range, justification for seriousness of violation and indicate: \$ 2250.00 350.00
- 4. Penalty Amount Chosen: \$ 2250.00 350.00
- 5. Per-Day Assessment: \_\_\_\_\_

Part II - Penalty Adjustments

- |   | Percentage Change | Dollar Amount                      |
|---|-------------------|------------------------------------|
| 1. Good Faith Efforts   |                   |                                    |
| 2. Degree of Willfulness and/or negligence                          |                   |                                    |
| 3. History of Noncompliance   |                   |                                    |
| 4. Other Unique Factors   |                   |                                    |
| 5. Adjusted per-day penalty (Line 4, Part I and lines 1-4, Part II) |                   |                                    |
| 6. Number of days in Violation                                      |                   |                                    |
| 7. Multi-Day Penalty (Line 5 X Line 6)                              |                   |                                    |
| 8. Economic Benefit of Noncompliance                                |                   |                                    |
| 9. Total (Lines 7 + 8)  |                   |                                    |
| 10. Ability to Pay Adjustment                                       |                   |                                    |
| TOTAL PENALTY AMOUNT  |                   | <u>\$ 2250.00</u> <u>\$ 350.00</u> |

Potential for Harm Justification: MINOR  
The no. of drums containing hazardous waste is less than 5.  
Extent of Deviation Justification: MAJOR  
Linda Feickert has failed to deliver hazardous waste to a proper treatment, storage, & disposal facility.  
Justification of Penalty Adjustment:  
Respondent did not intend for the drums to be removed. She said the drums contained useable product & were not waste. However, she needs to accept partial responsibility for the improper disposal of the drums. But 11-2-90  
Matrix Cell  
Extent of Deviation from Requirement  
Major Moderate Minor  
\$25,000 to \$19,999 \$14,999 to \$11,000  
Major Moderate Minor  
\$20,000 to \$15,000 \$11,000 to \$7,999  
Moderate Minor  
\$10,999 to \$7,999 \$4,999 to \$3,000  
Potential for Harm  
Major Moderate Minor  
\$8,000 to \$5,000 \$499 to \$100  
REVISIONS  
Justification for Further Adjustments:  
Potential for Harm: \_\_\_\_\_  
Extent of Deviation: \_\_\_\_\_  
Revised: \_\_\_\_\_  
TOTAL PENALTY: \_\_\_\_\_

But 11-2-90

OFFICE OF GENERAL COUNSEL  
NOTIFICATION OF CASE ASSIGNMENT/TRACKING SYSTEM ENTRY

ASSIGNMENT DATE: 7-16-90  
DISTRICT DATE OPEN: \_\_\_\_\_  
REASSIGNMENT DATE: \_\_\_\_\_  
OGC FILE NUMBER: 90-1101

TO: Francine Ffolkes  
THROUGH:  
FROM: Larry Morgan

THE BELOW REFERENCED CASE HAS BEEN ASSIGNED/REASSIGNED TO YOU. PLEASE HANDLE. ALL FURTHER INQUIRIES FROM DEPARTMENT STAFF WILL BE DIRECTED TO YOU.

cc: District Manager

CASE NAME: DER v. Linda Feickert

MODE: E PROGRAM(s): HW / / / / /  
DISTRICT: SEFD COUNTY: Palm Beach (50)  
PERMIT/APPLICATION/FACILITY ID #: \_\_\_\_\_

Petition for Administrative Hearing Received: \_\_\_\_\_

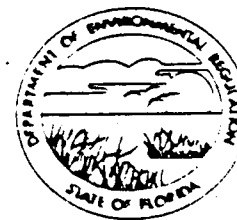
Request for Extension of Time to File  
Petition for Administrative Hearing Received: \_\_\_\_\_

Draft Consent Order Received: \_\_\_\_\_

Draft N.O.V. Received: \_\_\_\_\_

Case Report Received: \_\_\_\_\_

Other: \_\_\_\_\_



# Interoffice Memorandum

LEGAL CASE TRACKING SYSTEM  
ENFORCEMENT CASE ENTRY FORM

TO: Larry Morgan  
Office of General Counsel

FROM:

Ginny Hurley

DATE:

7-5-90

This form accompanied by:

This form accompanied by:  
Draft Consent Order X Draft N.O.V. \_\_\_\_\_ Case Report \_\_\_\_\_

The following information may be used for entry in the Legal Case Tracking System.

Case Name: Linda Feickert

Case Alias:

Responsible Office: SED County Palm Beach

District Contact: Ginny Hurley

Program Area: Hw 2nd Program Area \_\_\_\_\_

Date Compliance/Enforcement Case Opened by District \_\_\_\_\_

Permit/Application Number: \_\_\_\_\_

Facility ID Number: Non-notifier

Comments: \_\_\_\_\_

-----FOR OGC USE ONLY-----  
OGC NUMBER: \_\_\_\_\_ Date Case Opened: \_\_\_\_\_

OGC ATTORNEY ASSIGNED: \_\_\_\_\_

Send Copies To:

- \_\_\_\_\_ Originator
- \_\_\_\_\_ Wetland Resource
- \_\_\_\_\_ Management
- \_\_\_\_\_ Local Govt. Wastewater
- \_\_\_\_\_ Financial Assistance
- \_\_\_\_\_ Air Quality Planning
- \_\_\_\_\_ & Regulation
- \_\_\_\_\_ Waste Planning
- \_\_\_\_\_ Regulation
- \_\_\_\_\_ Leigh O'Shields
- \_\_\_\_\_ State Lands Management

Mr. Ron Silver,  
U.S. Army Corps  
Surface Water Management  
Groundwater Protection  
Water Facilities Planning  
& Regulation  
Waste Cleanup

(Other)

(Other)

STATE OF FLORIDA

DEPARTMENT OF ENVIRONMENTAL REGULATION

STATE OF FLORIDA DEPARTMENT	:	IN THE OFFICE OF THE
OF ENVIRONMENTAL REGULATION,	:	<u>SOUTHEAST FLORIDA DISTRICT</u>
	:	
Complainant,	:	
	:	
vs.	:	
	:	OGC Case No. 90- 110 (
LINDA FEICKERT,	:	
	:	
Respondent.	:	
	:	

---

NOTICE OF VIOLATION AND  
ORDERS FOR CORRECTIVE ACTION

TO: Ms. Linda Feickert  
Rt. 3, Box 607  
Hulbert, OK 74441

Certified Mail Number \_\_\_\_\_

Pursuant to the authority of Section 403.121(2), Florida Statutes (F.S.), and Florida Administrative Code (F.A.C.) Rule 17-103.110(1), the State of Florida Department of Environmental Regulation ("Department") gives notice to Linda Feickert ("Respondent") of the following findings of fact and conclusions of law with respect to violations of Chapter 403, F.S., and Title 17.

FINDINGS OF FACT

PARAGRAPHS APPLICABLE TO ALL COUNTS

1. The Department is the administrative agency of the State of Florida which has the authority to administer and enforce the provisions of Chapter 403, F.S., and the rules promulgated thereunder in F.A.C. Title 17.

2. Respondent Linda Feickert is an Oklahoma resident that owns property located at 519 S.E. 32nd Ct., Ft. Lauderdale, FL.

3. On September 26, 1989, the Emergency Response Section of the Department's Southeast Florida District responded to an incident involving two 55-gallon drums and four 5-gallon containers found abandoned on property located at 201 S.W. 19th St., Ft. Lauderdale, FL. Some of the drums contained hazardous waste as defined in 40 Code of Federal Regulations (CFR) Part 261. A subsequent investigation by

the Department traced the origin of the drums to a warehouse at 519 S.E. 32nd Ct., Ft. Lauderdale, FL, owned by the Respondent. The emergency response incident and investigation report is attached hereto as Exhibit I.

4. On September 28, 1989, the Department's hazardous waste contractor, OHM Corporation, sampled and removed the drums and containers to the Department's hazardous waste storage shed located in West Palm Beach, Florida.

5. On November 8, 1989, the investigation revealed that containers #1 and #2 had been shipped to Rinker, 29 S.W. 33rd St., Ft. Lauderdale, FL. Rinker later confirmed that the containers had been shipped to a warehouse at 519 S.E. 32nd Ct., Ft. Lauderdale, owned by Linda Feickert of Hulbert, OK.

6. On January 4, 1990, the Department called Linda Feickert at her place of business in Oklahoma. Ms. Feickert confirmed that she still owned the warehouse at the above referenced address and that at least two of the abandoned drums belonged to her. Per Ms. Feickert the four remaining containers probably belonged to the previous tenant.

7. On January 30, 1990, Mr. Feickert informed the Department that he had paid \$360.00 to Mr. Ray Kohl of Kohl's Trash Hauling to dispose of trash left by the tenant at 519 S.E. 32nd Ct.

8. On April 19, 1990, the Department contacted Mr. Kohl regarding work he performed for the Feickerts. Mr. Kohl confirmed that he had cleaned out the warehouse bay at the above referenced address at the request of Ms. Feickert. However, he had no recollection of any drums or five-gallon containers.

COUNT I  
Improper Disposal of Hazardous Wastes

9. Respondent has failed to ensure proper delivery of hazardous waste to a permitted Treatment, Storage, or Disposal Facility and have disposed of hazardous waste in a manner not authorized by the Department.

COUNT II  
Violation of Hazardous Waste Management Rules

10. Respondent has violated Department rules governing management of hazardous waste by:

Linda Feickert  
Notice of Violation  
Page 3 of 8

- a) Failing to use a State certified hazardous waste transporter to transport hazardous waste.
- b) Failing to use the manifest system when shipping hazardous waste off-site.
- c) Failing to label all drums containing hazardous waste with the words "Hazardous Waste".

COUNT III  
Creating an Imminent Hazard

11. Respondents are responsible for the unauthorized disposal of hazardous waste. The illegally disposed hazardous waste presented an imminent hazard to the integrity of the State's resources and to the public health, safety and welfare.

COUNT IV  
Improper Disposal of Solid Waste

12. The hazardous wastes which were abandoned are solid wastes as defined in 403.703(9) and Rule 17-730.030 F.A.C.

COUNT V  
Costs and Expenses

13. The Department has incurred expenses to date while investigating this matter in an amount of not less than \$1955.00.

CONCLUSIONS OF LAW

The Department has evaluated the Findings of Fact with regard to the requirements of Chapter 403, Parts I and IV, F.S.; F.A.C. Chapter 17-730; 40 Code of Federal Regulations (CFR) 260 through 266. Based on the foregoing facts the Department has made the following Conclusions of Law:

14. Respondent is a person within the meaning of Sections 403.031 and 403.703, F.S.

15. The provisions of 40 CFR 260.10 and 40 CFR Parts 260 through 266 are adopted by reference in F.A.C. Rules 17-730, Parts I-IV.

Linda Feickert  
Notice Of Violation  
Page 4 of 8

16. Respondent's operation is a hazardous waste facility as defined in Section 403.703(22), F.S., F.A.C. Rule 17-730.02 and 40 CFR 260.10.

17. The facts related in COUNT I constitute a violation of Section 403.727 and 403.722, F.S. which prohibits disposal of hazardous waste at a location other than a permitted treatment, storage, and disposal facility.

18. The facts related in COUNT II constitute violations of Section 403.727 and Rules 17-730, Parts I-IV F.A.C. which make it a violation of the rules regarding management of hazardous wastes.

19. The facts related in COUNT III constitute a violation of 403.726 and 403.727 F.S. which prohibit any person from causing or allowing an imminent hazard and which authorizes the Department to take whatever corrective measures necessary to abate such a hazard.

20. The facts related in COUNT IV constitute a violation of Section 403.708 and Rule 17-701.040, F.A.C. which prohibit the disposal of solid wastes in a manner not approved by the Department

and which specifically prohibits placement and discharge of solid wastes in or on the land within the state.

21. The costs and expenses related in COUNT V are reasonable costs and expenses incurred by the State of Florida while investigating this matter, which are recoverable pursuant to Section 403.141(1), F.S.

#### ORDERS FOR CORRECTIVE ACTION

The Department has alleged that the activities related in the Findings of Fact constitute violations of Florida law. The Orders for Corrective Action state what you, Respondent, must do in order to correct and redress the violations alleged on this notice.

The Department will adopt the Orders for Corrective Action as part of its Final Order in this case unless Respondent files a timely petition for a formal hearing or informal proceeding, pursuant to Section 403.121, F.S. and F.A.C. Rule 17-103.110 (see Notice of Rights). If Respondent fails to comply with the corrective actions ordered by the Final Order, the Department is authorized to file suit seeking judicial enforcement of the Department's order pursuant to Sections 120.69 and 403.131, F.S.

Pursuant to the authority of Section 403.061(8) and 403.121, F.S. and F.A.C. Rule 17-103.110, the Department proposes to adopt in its Final Order in this case the following specific corrective actions which will redress the alleged violations:

22. Respondent shall forthwith comply with all Department rules regarding hazardous waste management. Respondent shall correct and redress all violations listed in the Conclusions of Law. Respondent shall comply with all applicable sections in F.A.C. Chapter 17-730 and 40 CFR, Parts 260-268.

23. Within 45 days, Respondent shall submit to the Department a report certifying compliance with paragraph 19 of this notice.

24. Within thirty days, Respondent shall make payment to the Department for costs and expenses in the amount of \$1955.00. Payment shall be made by certified check or money order payable to the "State of Florida Department of Environmental Regulation," and shall be sent to the Department's Southeast Florida District Office, 1900 South Congress Avenue, Suite A, West Palm Beach, Florida 33406.

#### NOTICE OF RIGHTS

1. Respondent has the right to a formal administrative hearing pursuant to Section 120.57(1), F.S., if Respondent disputes issues of material fact raised by this Notice of Violation and Orders for Corrective Action ("Notice"). At a formal hearing, Respondent will have the opportunity to be represented by counsel, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of fact and orders, and to file exceptions to any order or hearing officer's recommended order.

2. Respondent has the right to an informal administrative proceeding pursuant to Section 120.57(2), F.S., if Respondent does not dispute issues of material fact raised by this Notice. If an informal proceeding is held, Respondent will have the opportunity to be represented by counsel, to present to the agency written or oral evidence in opposition to the Department's proposed action, or to present a written statement challenging the grounds upon which the Department is justifying its proposed action.

3. Respondent may request an informal conference with the Department pursuant to F.A.C. Rule 17-103.090 in order to resolve this matter promptly and amicably. Respondent's rights will not be adjudicated at an informal conference, and the right to a formal hearing or informal proceeding will not be affected by requesting and participating in an informal conference.



4. If Respondent desires a formal hearing or an informal proceeding, Respondent must file a written responsive pleading entitled "Petition for Administrative Proceeding" within twenty days of receipt of this Notice or within ten days of any timely requested informal conference held pursuant to paragraph 5 below. The petition must be in the form required by F.A.C., chapter 17-103 and by F.A.C. Rule 28-5.201. A petition is filed when it is received by the Department's Office of General Counsel, 2600 Blairstone Road, Tallahassee, Florida 32399-2400. A petition must specifically request a formal hearing or an informal proceeding, it must admit or deny each Findings of Fact of this Notice, and must state any defenses upon which Respondent relies. If Respondent lacks knowledge of a particular allegation, Respondent must so state, and that statement will operate as a denial.

5. If Respondent desires an informal conference, Respondent must file a written "Request for an Informal Conference" within ten days of receipt of this Notice. The request must be made to the person indicated on the last page of this Notice. The informal conference will be held within ten days of receipt of the request. If no resolution of this matter results from the informal conference, Respondent has the right to file a petition for a formal hearing or informal proceeding within ten days of the date the conference is held.

6. Respondent will waive the right to a formal hearing or an informal proceeding if a petition is not filed with the Department within twenty days of the date of this Notice or ten days of the date of an informal conference if one is held. These time limits may be varied only by written consent of the Department.

7. The allegations of this Notice together with the Orders for Corrective Action will be adopted by the Department in a Final Order if Respondent fails to file a timely petition for a formal hearing or an informal proceeding, pursuant to Section 403.860, F.S., and F.A.C. Rule 17-103.110. A Final Order will constitute a full and final adjudication of matters alleged in the Notice of Violation and Orders for Corrective Action.

8. If the Respondent fails to comply with the Final Order, the Department is authorized to file suit in circuit court seeking a mandatory injunction to compel compliance with the Order, pursuant to Section 120.69 and 403.860, F.S. The Department may also seek to recover damages, all costs of litigation including reasonable attorney's fees and expert witness fees, and civil penalties of not more than \$50,000 per day for each day that Respondent has failed to comply with the Final Order.

Linda Feickert  
Notice of Violation  
Page 7 of 8

9. Litigation will be avoided if Respondent immediately complies with the Orders for Corrective Actions. This matter may be resolved if the Department and Respondent enter into a Consent Order, in accordance with F.A.C. Rule 17-103.110(3), upon such terms and conditions as may be mutually agreeable. In this regard, the Department has entered into an agreement with the United States Environmental Protection Agency ("EPA") regarding cases involving violations of hazardous waste rules. The agreement requires the penalties to be computed on the basis of the EPA Resource Conservation and Recovery Act Civil Penalty Policy dated May 8, 1984, a copy of which is available upon request from the Department. Any settlement between the Department and the Respondent concerning violations set forth herein must include the payment of penalties consistent with this policy. Should the parties not be able to settle this action, the Department may voluntarily dismiss this NOV and seek judicial imposition of penalties in circuit court, file a separate and independent action in court for imposition of civil penalties, or refer the violations to EPA.

10. The Department is not barred by issuance of this Notice from maintaining an independent action in circuit court with respect to alleged violations. If such action is warranted, the Department may seek injunctive relief, damages, civil penalties of not more than \$50,000 per day, and all costs of litigation.

11. Copies of Department rules referenced in this Notice may be examined at any Department office or may be obtained by written request to person listed on the last page of this Notice.

DATED THIS \_\_\_\_\_ OF \_\_\_\_\_, 1990

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION

---

J. Scott Benyon  
Deputy Assistant Secretary  
1900 South Congress Avenue, Suite A  
West Palm Beach, Florida 33406

Linda Feickert  
Notice of Violation  
Page 8 of 8

Copies furnished to:

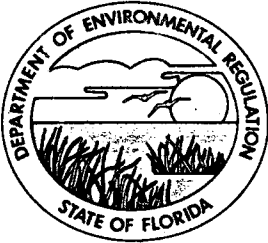
Office of General Counsel, DER, Tallahassee  
Broward County Environmental Quality Control Board  
File, Reporting Coordinator  
West Palm Beach, DER Files

A petition for hearing must be filed with:

OFFICE OF GENERAL COUNSEL  
State of Florida Department of Environmental Regulation  
2600 Blainstone Road  
Tallahassee, Florida 32399-2400  
Telephone: 904/488-9730

A request for an informal conference must be made to:

Alexander Padva, Ph.D.  
Waste Programs Administrator  
Southeast Florida District  
State of Florida Department of Environmental Regulation  
1900 South Congress Avenue, Suite A  
West Palm Beach, Florida 33406  
Telephone: 407/964-9668



# Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406 • 407-964-9668

Bob Martinez, Governor

Dale Twachtman, Secretary

John Shearer, Assistant Secretary  
Scott Benyon, Deputy Assistant Secretary

MAY 25 1990

## EMERGENCY RESPONSE INCIDENT REPORT

Final Report Date: 09/29/89

I. NOTIFICATION date: 09 / 25 / 89 Incident date/time: 08/89  
REPORTED by: Ft. Lauderdale Police Dept Phone:  
Affiliation: Fire Dept. Police ☒ Sheriff DOT FMP USCG  
EPA DER PBCHD PBCDERM BCEQCB MDCDERM MCPHU  
SLCHD OCHD GFC neighbor resident anonymous  
other

II. TYPE: Spill Fire Abandoned ☒ Dumping other  
Material(s): unknown ☒ acid ☒ alkali solvent ☒ paint pesticide  
herbicide gasoline diesel fuel jet fuel misc. fuel oil ☒  
gas/vapor misc. chem. ☒ other

DETAILS See attached for drum details

HAZARD(s): flammable combustible ☒ toxic corrosive ☒ oxidizer  
explosive reactive radioactive biohaz other none

AMOUNT OR #: gal. lbs. 55-gal. drums 2 5-gal. containers 4  
other container/size other

SOURCE/Case: container spill/leak tank spill/leak vehicle accident  
dumped ☒ other

III. LOCATION dead end at 201 SW 19 St., Ft. Lauderdale  
COUNTY: Palm Beach Broward ☒ Dade Martin St. Lucie Okeechobee  
RESPONSIBLE PARTY: (unknown) Linda Feickert (generator)  
Address Rt. 3 Box 607, Hulbert, Okla. 74441  
Phone (918) 459-0605 Contact L. Feickert

IV. AFFECTED AREAS: soil canal/ditch lake/pond storm drain air  
groundwater drinking wells nearby residential ☒ commercial area ☒  
vacant roadway ☒ beach parking lot farm other  
injuries

V. RESPONSE: DER asst. req'd. ☒ local agency lead fire extinguished  
spill absorbed/diked neutralized soil excavated booms/abs.pads  
leak stopped material overpacked/removed ☒ pumped vapors suppressed  
containers closed containers labeled area cordoned ☒ diluted  
mitigated naturally samples ☒ field tests ☒ photographs ☒ material  
placed in DER Shed ☒ (OHM job # /task# ) covered with plastic  
OTHER INFO.: DER Contractor job # 7946

FIELD TEST results: See Section II ☒ verified initial info.  
details

SCALE OF INCIDENT: very minor minor ☒ moderate major  
FOLLOWUP 5/15/90-case referred to HW section for penalties & cost recovery from  
generator. (dumper uncertain)

VI. AGENCIES NOTIFIED: SWP EPA USCG DNR/FMP Fire Police  
PBCHD PBCDERM BCEQCB ☒ MDCDERM MCPHU SLCHD OCHD  
DOT Public Works GFC Other City of Ft. Lauderdale (Jim Brenenstein)  
305/492-7806

INVESTIGATOR(S): Jeff Tobergte JT ☒ Bob Kukleski Knox McKee  
Other dates 09/26, 0/28  
TIME SPENT: field office total hours attached  
ADD'L. INFO. attached ☒ See DER Shed File ☒ see file

JT:am/4

cc:

Emergency Response, DER/Tall. Alex Padva, Waste Prog. Admin.  
Local Program BCEQCB Don White, Water Prog. Admin.  
Scott Benyon, Dep. Asst. Sect. Paul Wierzbicki, HW Supervisor  
Other Shed file

MAY 25 1990

Container Details

1. 1 black 55-gal. DM, "Waterban-R" by Lambert Corp. (Orlando, FL). On top (by hand): "Lambert Corp. 20 N. Coburn Ave., Orlando, FL." Also on top, a white sticker:

printed: } Lambert Corp.  
20 N. Coburn Ave.  
Orlando, FL  
305/841-2940

"44"

handwritten on sticker

typed: } Rinker Materials Corp.  
29 SW 33 St.  
Ft. Lauderdale, FL 33315

Contains: ~ 15 gal. clean, combustible liquid, appears to be mineral spirits.

2. 1 red 55-gal. DM, Lambert Corp. "64 RB Resin Core." It has the same sticker as #1, above. On the side, the following is typed on a faded label:

"67984"  
"440 gallons"  
"Sample #L-14-86/Batch # S-3229DL3"

Contains: ~ 2" of what appears to be rusty water.

3&4 } blue 5-gal. plastic containers, 1 has never been opened. Rochem  
"Metal Brite", "contains phosphoric acid." Rochem, N.Y.  
212/425-4780.

Contains: both are full, and contain  $H_3PO_4$ . pH 1-2.

5. 1 blue 5-gal. plastic container, Rochem "Sodium Hypochlorite." "Bleach handwritten on top; "Blend handwritten" on side.

Contains: full of clean, red transmission fluid.

6. 1 yellow, metal 5-gal. can, never opened. Rochem "Oil Spill Remover, Low Toxicity." Full.

Contains: diesel fuel base?

---

On 9/26, I collected a sample from each container (except #6), and labeled them 1-5 in the order above. I took photos, and cordoned the containers. Tom Dazey (Broward State Attorney's Office, 305/357-6953) appeared on scene. (Shortly before, a Ft. Lauderdale PD patrol car had stopped by while I was there.)

A nearby resident approached Tom and I, and said she first saw the drums on August 28 while walking her dog. She called Anita Allen (BCEQCB) shortly afterwards, and was told to call the City of Ft. Lauderdale, which she did. However, she said the containers were not removed, and she observed no activity until seeing my truck today (9/26). (Tom Dazey has her name and address.)

Then, Tom and I spoke to Charles Reed, owner of Karlynn Corp. Printing across the street at this cul-de-sac (200 SW 19 St., Ft. Lauderdale 33315, 305/462-0701). He said that before Labor Day (9/4), on a Saturday night he heard a "thump" and came out to see what happened. He saw a stake-bed truck (white or light color with a dark back) driving away. It was too dark and too far away to get more details. He noticed the drums. This same thing happened another Saturday night when some pallets and refrigerator were dumped by the same truck.

9/28/89

Using OHM Corp. (job #7946), the containers were removed and taken to the DER Shed. My samples were given to OHM, and OHM collected a sample from the yellow can (which had never been opened). The samples were numbered in

sequence from other samples from different drums which had also been handled on job #7946. The samples are:

OHM SAMPLE #

Container

09	black 55-gal. Lambert drum
10	red 55-gal. Lambert drum
11	blue Rochem Metal Brite jug
12	blue Rochem Metal Brite jug
13	blue Rochem hypochlorite jug
14	yellow Rochem Oil Spill Remover can

10/19/89 I faxed drum information to DER/Orlando for checking with Lambert Corp.

10/23/89 DER/Orlando faxed invoice information to me which shows that container #1 ("Waterban R") was shipped to Rinker (29 SW 33 St.) on 12/1/86 via invoice #21637. Container #2 (#64 RB Resin ?) was also shipped to that Rinker facility on 5/15/86, via invoice #19477.

11/07/89 Tom Dazey (BSAO) and I visited Richie Sampiere (Plant Mgr., Rinker). He said he will check his records to see whom those drums had been sold to; the "Waterban R" is a rare material.

11/08/89 Tom Dazey said he got a call from Rinker. On 10/10/86, the "64 RB Resin Cure" was sold to Linda Feickert; the "Waterban R" was sold to her on 01/26/87. Rinker files give her addresses as:

mail: 919 Cordova Rd., Ft. Lauderdale  
prior: 1334 Ponce DeLeon Dr., Ft. Lauderdale  
shipped to: 519 SE 32 Ct., Ft. Lauderdale  
phone: 467-0551  
Her husband is Fredrick J. Feickert

11/16/89 I drove to 519 SE 32 Ct., which is very close to Rinker. No Feickerts are there. A sign says "available, Larry Rowe Realtors, 763-6764." I drove past 919 Cordova Rd., it is a large house, apparently of moderate to high wealth.

12/01/89 I called Larry Rowe Realtors. The warehouse at 519 SE 32 Ct. is owned by Linda Feickert, in Oklahoma (918/772-2341). There was no answer after repeated calls to that number.

01/04/89 I visited Larry Rowe Realtors. They gave me more information on Linda Feickert: 918/459-0605 (a new restaurant in Tulsa, Okla.); Rt. 3, Box 607, Hulbert, OK 74441. I called Linda; she said she moved out of Florida about one year ago. She still owns the warehouse at 519 SE 32 Ct., and had a tenant that she had to evict. The tenant's name was Frank Cocchiola, of Embassy Limousine Service. Mr. Cocchiola also outfitted boats (seats, windows, etc.), and lives in Sunrise. After the tenant was evicted, Linda had to hire a trash hauler to remove trash left behind by the tenant; Linda said she did not know hazardous materials were present. Linda said the Rochem materials were not hers, but probably the tenant's materials. Linda said the Lambert materials were hers, when she had the warehouse built; the Lambert drums were located in the same bay. Linda said she will search her records to get the information on the trash hauler.

01/30/90 Mr. Feickert called me. He paid \$360 to Ray Kohl (Kohl Trash Hauling) in Ft. Lauderdale in July or August (he would have to re-check for the exact date).

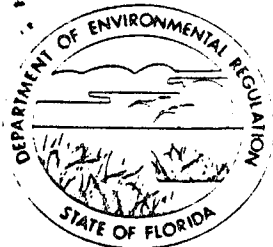
02/21/90 The phone book does not list Kohl Trash Hauling, but does have:

Ray Kohl, Jr.  
818 SW 12 Court  
Ft. Lauderdale  
524-0158

I drove past this address; it is a duplex and nobody appeared to be home. This residence is located about 1-1.5 miles from the site where the containers were abandoned. I dialed the above number; an answering service said this is the number for Ray Kohl Trash Hauling.

- 04/19/90 Bruce Lawless (GFC) and I talked to Ray Kohl. Kohl remembers cleaning out the bay in question, but he does not remember any drums or 5-gal. containers. (He said he does not haul such items.) He has done work for Feickert in the past. About two months ago, he talked to Linda Feickert; she had called him about this matter.
- 05/15/90 Ray Kohl is the most likely dumper in this case, but we are not able to prove it at this time. Nevertheless, Linda Feickert has violated 40 CFR 261.5(g) for failing to ensure delivery of hazardous waste to a proper facility. In addition, DER contractor costs for analyzing the mineral spirits, transmission fluid and diesel/oil spill remover containers was \$1455. (Note: total contractor costs are actually higher but this job #7946 also included other unrelated drums from other sites; the above lab analysis is the only item specifically billed and attributable to this site.) Therefore, this matter is referred to the DER HW Section for enforcement action and cost recovery against Feickert.

JT:am/4



# Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406 • 407-964-9668

Bob Martinez, Governor

Dale Twachtman, Secretary

John Shearer, Assistant Secretary  
Scott Benvon, Deputy Assistant Secretary

## FAX TRANSMITTAL LETTER

DATE: 10/19/89

Module no. 0100

### TO:

NAME: Ed Sauten

AGENCY: DER/Orlando

FAX TELEPHONE NUMBER 407/897-6913

NUMBER OF PAGES (INCLUDING THIS PAGE) 3

### FROM:

NAME: Jeff Tobergte

AGENCY: DER/WPB

TRANSMITTAL ON A HITACHI HIFAX 35E, NUMBER 407/964-1275

IF ANY OF THE PAGES ARE NOT CLEARLY RECEIVED, PLEASE CALL IMMEDIATELY.

SENDERS NAME: Jeff Tobergte (SC 221-5005)

### COMMENTS:

Containers 1 & 2 were both shipped from Lambert Corp. (Orlando) to Rinker Materials. We would like to know the date(s), copy of invoices, etc., particularly for material shipped to Rinker at 29 SW 33 St., Ft. Lauderdale.

Thanks! JT





State of Florida  
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee	
To: _____	Location: _____
To: _____	Location: _____
To: _____	Location: _____
From: _____	Date: _____

# Interoffice Memorandum

## FAX TRANSMITTAL LETTER

**TO:**

NAME:

Jeff Tobergte

AGENCY:

DER/WPB

TELEPHONE NUMBER (FAX No.):

407 / 964-1275

NUMBER OF PAGES (including cover sheet):

6**FROM:**

NAME:

Ed Sainen (SC 325-1261)

AGENCY:

DER/Orlando

(Transmittal on a Hitachi HIFAX: Orlando FAX Telephone Number (407)897-6913)

IF ANY OF THESE PAGES ARE NOT CLEARLY RECEIVED, PLEASE CALL IMMEDIATELY at  
Phone Number: 407-894-7555.

SENDER'S NAME:

Ed Sainen

COMMENTS:

Copies of invoices obtained from Lambert Corp., Orlando  
for containers #1 and #2 forwarded. Materials were unquestionably  
shipped to Rinker, Ft. Lauderdale. Hope info will help in finding  
the dumper.

Call if further questions,

Ed

**U.S. DEPARTMENT OF LABOR**  
**Occupational Safety and Health Administration**

Form Approved  
OMB No. 44-R1367

# MATERIAL SAFETY DATA SHEET

Required under USDL Safety and Health Regulations for Ship Repairing,  
Shipbuilding, and Shipbreaking (29 CFR 1915, 1916, 1917)

## SECTION I

<b>MANUFACTURER'S NAME</b> LAMBERT CORPORATION OF FLORIDA		<b>EMERGENCY TELEPHONE NO.</b> 407-841-2940
<b>ADDRESS (Number, Street, City, State, and ZIP Code)</b> 20 N. Coburn Avenue Orlando, Florida 32805		
<b>CHEMICAL NAME AND SYNONYMS</b> Masonry Water Repellent		<b>TRADE NAME AND SYNONYMS</b> WATERBAN--R
<b>CHEMICAL FAMILY</b>	<b>FORMULA</b>	

## SECTION II - HAZARDOUS INGREDIENTS

PAINTS, PRESERVATIVES, & SOLVENTS	%	TLV (Units)	ALLOYS AND METALLIC COATINGS	%	TLV (Units)
PIGMENTS			BASE METAL		
CATALYST			ALLOYS		
VEHICLE			METALLIC COATINGS		
SOLVENTS Mineral Spirits	95		FILLER METAL PLUS COATING OR CORE FLUX		
ADDITIVES			OTHERS		
OTHERS Proprietary	5				
<b>HAZARDOUS MIXTURES OF OTHER LIQUIDS, SOLIDS, OR GASES</b>				%	TLV (Units)

## SECTION III - PHYSICAL DATA

<b>BOILING POINT (°F.)</b>	310°F	<b>SPECIFIC GRAVITY (H<sub>2</sub>O=1) @69°F</b>	.78
<b>VAPOR PRESSURE (mm Hg.)</b>	2.00	<b>PERCENT VOLATILE BY VOLUME (%)</b>	100%
<b>VAPOR DENSITY (AIR=1)</b>	4.9	<b>EVAPORATION RATE (Ether =1)</b>	70.00
<b>SOLUBILITY IN WATER</b>	Insoluble		
<b>APPEARANCE AND ODOR</b> Pale Yellow-mild petroleum			

## SECTION IV - FIRE AND EXPLOSION HAZARD DATA

<b>FLASH POINT (Method used)</b>	105°F TTC	<b>FLAMMABLE LIMITS</b>	Lel	Uel
<b>EXTINGUISHING MEDIA</b> Regular foam or carbon dioxide or dry chemical.				
<b>SPECIAL FIRE FIGHTING PROCEDURES</b> Self contained breathing apparatus with full facepiece operated in pressure-demand or other positive pressure mode.				
<b>UNUSUAL FIRE AND EXPLOSION HAZARDS</b> Never use welding or cutting torch on or near drum (even empty) because product (even just residue) can ignite explosively				

## SECTION V - HEALTH HAZARD DATA

THRESHOLD LIMIT VALUE

Unknown

EFFECTS OF OVEREXPOSURE

Inhalation: lightheadedness, dizziness, headache. Liquid is moderately irritating to skin and eyes.

EMERGENCY AND FIRST AID PROCEDURES

Inhalation: remove patient to fresh air. Skin Contact: was with soap and water. Eye Contact: flush with clean water minimum of 15 minutes. Ingestion: do not induce vomiting. Call physician.

## SECTION VI - REACTIVITY DATA

STABILITY

UNSTABLE

CONDITIONS TO AVOID

STABLE

XX

INCOMPATIBILITY (Materials to avoid)

HAZARDOUS DECOMPOSITION PRODUCTS

HAZARDOUS  
POLYMERIZATION

MAY OCCUR

WILL NOT OCCUR

XX

CONDITIONS TO AVOID

## SECTION VII - SPILL OR LEAK PROCEDURES

STEPS TO BE TAKEN IN CASE MATERIAL IS RELEASED OR SPILLED

Avoid prolonged breathing of vapors. Remove sources of ignition. Absorb on clay or sand. If possible pump to container. Ventilate

STRESS.

WASTE DISPOSAL METHOD

Controlled burning or approved landfill burial.

## SECTION VIII - SPECIAL PROTECTION INFORMATION

RESPIRATORY PROTECTION (Specify type)

NOSH/MSHA jointly approved air supplied respirator is advised.

VENTILATION

LOCAL EXHAUST

SPECIAL

As required

MECHANICAL (General)

OTHER

PROTECTIVE GLOVES

Nitrile rubber gloves

EYE PROTECTION

Chemical splash goggles.

OTHER PROTECTIVE EQUIPMENT

To prevent repeated skin contact, wear impervious clothing.

## SECTION IX - SPECIAL PRECAUTIONS

PRECAUTIONS TO BE TAKEN IN HANDLING AND STORING

Store and handle as combustible liquid.

OTHER PRECAUTIONS

Ground containers when pouring and limit free fall, empty containers may contain hazardous vapors, do not cut, weld, or puncture.

**ALTERNAM CORPORATION**  
OF FLORIDA

**INVOICE**

20 NORTH COBURN AVENUE  
ORLANDO, FLORIDA 32805

No. 19477

ALTERNAM CORPORATION	CUSTOMER ORDER NO. <b>1040P 154286</b>	INVOICE DATE <b>5/15/86</b>	TERMS: NET 30
ORLANDO, FL <input checked="" type="checkbox"/> <input type="checkbox"/>	VIA <b>Alterman 8804</b>	B/L NO. <b>19477</b>	<b>S Go</b>

ALTERNAM CORPORATION

Materials Corp.

P.O. Box 22216

Landersdale, FL 33315

SHIP TO

**SALES  
29 SW**

QUANTITY	DESCRIPTION	QUANTITY
2	55 gal #66 RB Resin Cure, Clear S- 3229 D.O.T. Approved	1
	tax exempt	
	ALTERNAM CORPORATION ORLANDO, FLORIDA 32805	

Container #2

This is a back order from invoice #19461.

19477

THIS ORDER IS SUBJECT TO THE TERMS AND CONDITIONS  
PRINTED ON THE FACE AND REVERSE SIDE HEREOF.  
WHEN THESE TERMS AND CONDITIONS SHALL APPLY.

PLEASE PAY FROM INVOICE.  
STATEMENT SENT ONLY UPON REQUEST.





State of Florida  
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee	
To: _____	Location: _____
To: _____	Location: _____
To: _____	Location: _____
From: _____	Date: _____

# Interoffice Memorandum

## FAX TRANSMITTAL LETTER

### TO:

NAME: Jeff Tobergte  
AGENCY: DER/WPB  
TELEPHONE NUMBER (FAX No.): 407 / 964-1275  
NUMBER OF PAGES (including cover sheet): 6

### FROM:

NAME: Ed Sainen (SC 325-1261)  
AGENCY: DER/Orlando

(Transmittal on a Hitachi HIFAX: Orlando FAX Telephone Number (407)897-6913)

IF ANY OF THESE PAGES ARE NOT CLEARLY RECEIVED, PLEASE CALL IMMEDIATELY at  
Phone Number: 407-894-7555.

SENDER'S NAME: Ed Sainen

COMMENTS: Copies of invoices obtained from Lambert Corp., Orlando  
for containers #1 and #2 forwarded. Materials were unquestionably  
shipped to Rinker, Ft. Lauderdale. Hope info will help in finding  
the dumper.

*Call if further questions,*

*Ed*

# INVOICE

No. 21637

SHIP TO

**TAX EXEMPT**

For  
Container #1

21637

**PLEASE PAY FROM INVOICE.  
STATEMENT SENT ONLY UPON REQUEST.**

**FILE COPY**

## Agent's No. \_\_\_\_\_

minists: Ft. Myers - Jacksonville - Hackensack - Orange (Los Angeles) - 12305 N.W. 42nd AVE. - Tallahassee - Winter Haven - Charlotte - Pensacola - Atlanta  
ama: Orlando - Panama City - Rockland Key (Key West) - OPA-LOCKA (MIAMI), FL 33054 - Riviera Beach (West Palm Beach) - Chicago - Dallas

## SHIPPING ORDER

**PLEASE PAY FROM INVOICE.**  
**STATEMENT SENT ONLY UPON REQUEST.**





# SPEC FILE

LAMBERT CORPORATION

3

CONCRETE MATERIALS  
CURING COMPOUNDS

## 1. PRODUCT NAME

#64 RB RESIN CURE - CLEAR  
#64 RB RESIN CURE - DYE  
#64 RB RESIN CURE - WHITE

Liquid membrane, concrete curing compounds.

## 2. MANUFACTURER

LAMBERT CORPORATION  
20 N. COBURN AVENUE  
ORLANDO, FLORIDA 32805  
PHONE (305) 841-2940  
FLA. WATS 800-432-4746  
OUTSIDE FLA. 800-327-2820

## 3. PRODUCT DESCRIPTION

#64 RB RESIN CURING COMPOUNDS are liquid membrane, curing compounds formulated to form a moisture impermeable film which inhibits moisture evaporation from freshly poured concrete. Restriction of the evaporation of hydration water assures maximum concrete hardness.

The concrete curing stage begins at the moment the hydration process begins and continues until hydration is complete, approximately 28 days. This is one of the most critical periods in concrete construction. The chemical reaction which takes place during the first few days after the pour will determine greatly the final quality of concrete. Concrete will develop the majority of its strength in the first seven days, but the hydration process must be allowed to continue if the concrete is to reach its planned 28 day strength. If the moisture content of the concrete is lost before the hydration is complete, the concrete cannot develop maximum strength. Of the several methods for retaining moisture in the concrete, #64 RB RESIN CURING COMPOUNDS offer the greatest combination of advantages.

## Advantages:

1. Most economical of all curing methods.
2. Permits proper hydration and curing.
3. Assures full strength concrete that is hard and highly resistant to deterioration.
4. Prevents scaling, hair checking and dusting of concrete.
5. Tinted to facilitate visible inspections for uniform coverage.
6. Quick, easy application by power or hand spray.
7. Dries quickly and uniformly to a tough, pliable film - free from pinholes.
8. Protects the surface of fresh concrete from damage resulting from early rainfall.

## Basic Uses:

#64 RB RESIN CURE - CLEAR is a thoroughly tested membrane curing compound that will conform to all Federal, State, County, and Municipal Specifications. It provides efficient, economical concrete curing for all types of construction: highways, roadways, bridges, buildings, curbing, waterways, dams, and other concrete structures. #64 RB RESIN CURE has 95% or better moisture retention and since it contains no wax, it will not prevent the proper bonding of flooring adhesives, paints, etc.

#64 RB RESIN CURE - WHITE pigmented is a curing compound recommended for use on concrete surfaces exposed to sunlight where it serves a dual purpose - moisture retention and the reflectance of heat producing rays of the sun to keep the concrete surface at a cooler temperature. It is not to be used on surfaces where subsequent paint or flooring mastics are to be installed.

## Cautions:

#64 RB RESIN CURE forms a continuous film for the critical curing period, then starts an oxidation cycle. This oxidation period is generally completed in 30 to 60 days for exterior applications, but varies with exposure to sunlight and other weathering elements. On interior floors, construction traffic, debris and abrasive particles will wear off a uniformly and evenly applied film. Although #64 RB RESIN CURE is compatible with many solvent based adhesives and paints it is recommended that before application of subsequent coatings the membrane curing compound should be oxidized off of the concrete or removed by wire brushing, sandblasting, or liquid paint strippers.

#64 RB should not be used on slabs that will receive thin toppings of concrete unless a bonding agent is used.

## Applicable Standards:

### #64 RB RESIN CURE - CLEAR

ASTM-C-309-81, Type 1, Class B  
AASHTO-M-148, Type 1, Class B  
NavDocks Spec 13 YD

### #64 RB RESIN CURE - DYE

ASTM-C-309-81, Type 1-D, Class B  
AASHTO-M-148, Type 1, Class B

### #64 RB RESIN CURE - WHITE

ASTM-C-309-81, Type 2, Class B  
AASHTO-M-148, Type 2, Class B  
CRD-C-300 - Where light reflectance is waived.

#64 RB RESIN CURE is available to meet Florida and Georgia Departments of Transportation requirements on special request.



# SPEC FILE

LAMBERT CORPORATION

7

MOISTURE PROTECTION  
DAMP-PROOFING

## 1. PRODUCT NAME

**WATERBAN - R**

**WATERBAN - HD (Heavy Duty)**

A transparent water repellent treatment for above grade masonry, stucco, brick and concrete.

## 2. MANUFACTURER

LAMBERT CORPORATION  
20 N. COBURN AVENUE  
ORLANDO, FLORIDA 32805  
PHONE (305) 841-2940  
FLA. WATS 800-432-4746  
OUTSIDE FLA. 800-327-2820

## 3. PRODUCT DESCRIPTION

WATERBAN is a clear liquid formulated to penetrate into porous materials and provide protection against water penetration. When properly applied WATERBAN becomes part of the substrate establishing a thick membrane beneath the surface that cannot be worn off by traffic or ultraviolet rays. Lining the substrate pores prevents moisture from entering into the surface, yet WATERBAN allows moisture that is present to escape very slowly as vapor. This allows the surface to maintain its breatheability.

WATERBAN will not change the natural beauty of masonry, brick, or concrete surfaces. It will minimize physical degradation of the masonry surface by reducing efflorescence caused by soluble salts in the masonry that are dissolved by water penetrating the surface. These salts are carried to the surface during the drying process, and the white, chalky material is left on the surface. WATERBAN prevents this process by keeping the water at the surface.

WATERBAN also reduces the amount of dirt, fungi, mildew, and other soiling agents that tend to adhere to the surface. These soiling agents are normally carried below the surface of masonry and concrete, subsequently discoloring the surface. These soiling agents will not readily adhere to a surface treated with WATERBAN, nor will it be carried below the surface by moisture.

WATERBAN is an excellent primer for concrete and masonry and also aids in the prevention of paint peeling and cracking due to substrate moisture. Paint coverage should increase significantly, thereby economizing paint requirements. WATERBAN treated surfaces may be top coated with ordinary paints, either latex or solvent base, and is compatible with most caulking compounds.

### Advantages:

1. Provides a water repellent surface.
2. Will not affect color or texture.
3. Resists staining, fungi and mildew.
4. Stops freeze - thaw spalling and cracking.
5. Prevents efflorescence.

### Basic Uses:

WATERBAN-R is used on porous materials such as concrete, masonry, brick, stucco, mortar joints, limestone, marble, concrete block, exposed aggregate panels, painted surfaces, split-face hard rock aggregate fluted or scored concrete block, clay tile and adobe brick.

WATERBAN-HD is used on porous materials that cannot successfully be treated with a low solids product. This includes split-face lightweight aggregate fluted or scored concrete block, coral rock, porous exposed aggregate panels, cinder or sandblasted block.

### Limitations:

Use WATERBAN-HD on lightweight, split face, fluted or scored, porous concrete. Do not use on brick, stucco or other more dense substrates.

### Composition and Materials:

Chemical solids carried in an aliphatic solvent. Free of silicones, waxes, oils, mercuric or lead compounds.

## 4. TECHNICAL DATA

**WATERBAN-R**

Solids Content - 5% Minimum

Flash Point - 105° F T.O.C.

**WATERBAN-HD**

Solids Content - 9% Minimum

Flash Point - 105° T.O.C.

## 5. INSTALLATION

### Surface Preparation:

Remove all loose paint, dirt, oil, grease, chemical films or foreign substances. Fill other than hairline cracks with patching plaster or recommended material and allow to dry. New concrete should be cured a minimum of 7 days. Concrete and masonry surfaces should be clean and dry. Air blasting is recommended.

### Application:

Apply to dry surfaces only. A fog or flood method is recommended when spraying WATERBAN. Dampen first with a light fog coat of WATERBAN to reduce surface tension. Immediately follow with a saturation coat giving the surface all it will absorb. Apply evenly until surface is totally wetted without running or puddling. Avoid misting of the spray as treatment is applied. Apply WATERBAN as packaged, do not dilute or alter material.

All Commercial work should be done with airless spray equipment using low pressure and a large orifice tip (pressure 20-25 psi and a tip no smaller than 0.036 inch). Hand spray equipment such as the Hudson type garden sprayer with neoprene hose or a 3/4" lamb's wool applicator can be used where power equipment is not feasible.

### Vertical Surfaces:

Start spraying at top of panel or wall and make horizontal passes. Use an overlapping pattern and continue to bottom of panel. Do not apply until excessive run down occurs. Pay particular attention to mortar joints, parapet walls on the sides and above roof lines. Frequent passes over an area start capillary action and allow sealer to penetrate before the next pass. In all cases, porosity of the surface being treated must be fully satisfied, but within 20-30 minutes

following application, back-brush to remove any surplus remaining on the surface. If 2 applications are required allow 24-48 hours curing time before second coat.

#### Horizontal Surfaces:

Apply liberally as described under Section 5-Application. Redistribute surplus within 1 hour after application. Subsequent application 24-48 hours apart in same manner.

#### Precaution:

Application must be made only to clean, dry surfaces at 40°F or above. Except in areas of high humidity allow 24-48 hours drying time between applications. When humidity exceeds 75% make second application immediately following first to prevent a moisture film forming between coats. WATERBAN may be applied over oil based painted surfaces when old paint has oxidized to the extent that moisture penetrates.

#### Cautions:

Combustible mixture, contains petroleum distillate. Use only in well ventilated areas. Keep out of children's reach. If swallowed, do not induce vomiting. Call a physician immediately. If solution does come in contact with eyes, flush with water and seek medical attention.

Protect shrubs and plant life when applying. All containers should be kept properly closed and free of water. Clean up with mineral spirits or lacquer thinner.

### 6. PAINTING

After concrete treated with WATERBAN is dry, solvent base paints exhibit best adhesion on concrete surfaces. Top quality acrylic latex paints also perform well. Vinyl acetate, water base cement paints, and other water base paints generally require greater surface preparation to insure adequate adhesion. Surface preparation and paint selection should be per paint manufacturer's recommendations.

### 7. COVERAGES

	1st APPLICATION		2nd APPLICATION	
	TYPE	COVERAGE MATERIAL SQ.FT./GAL.	TYPE	COVERAGE MATERIAL SQ.FT./GAL.
Brick: Adobe	R	100	R	200
Brick: Common -- Smooth Surface	R	200	R	300
Brick: Common Wire cut Porous Surface	R	100	R	200
Concrete Block: Lightweight, Smooth Face	R	50	R	100
Concrete Block: Lightweight, Split Face, Fluted or Scored	HD	50	HD	100
Concrete Block: Lightweight, Slumpstone	R	100	R	150
Concrete: Precast, Poured-in-Place, Trowel Finish	R	200	R	400
Concrete: Sandblast, Etched, Exposed Aggregate	R	150	R	300
Clay Tile -- Quarry Tile	R	200	R	200
Stucco	R	200	R	300
Limestone, Architectural White Concrete	R	200	R	300
Marble or Granite (Smooth Surface)	R	400	R	
Slate -- Asbestos -- Masonite	R	300	R	

### 8. GUARANTEE

All recommendations, statements and technical data contained herein, are based on tests we believe to be reliable and correct, but accuracy and completeness of said tests are not guaranteed and are not to be construed as a warranty, either expressed or implied. User shall rely on his own information and tests to determine the suitability of the product for the intended use and user assumes all risk and liability resulting from his use of the product. Seller's and manufacturer's sole responsibility shall be to replace that portion of the product of this manufacturer which proved to be defective. Neither seller, nor manufacturer shall be liable to the buyer or any third person for any injury, loss or damage directly or indirectly resulting from the use or inability to use the product. Recommendations or statements, other than those contained in a written agreement signed by an officer of the manufacturer, shall not be binding upon the manufacturer or seller.

### 9. TECHNICAL SERVICES

Complete technical information and literature are available from authorized Lambert distributors and Lambert Corporation, Orlando, FL.

### 10. PACKAGING

55 gallon drums  
5 gallon pails

#### **4. TECHNICAL DATA**

Film Character	Continuous Film
Dry Time (72° F. Humidity 50%)	30 Minutes
Flash Point	104° F. — TCC
Unit Moisture Loss (grams/sq.cm.)	.041 Average
Storage Stability	6 Months
Resistance to Rainfall	4 Hours
Solids Type	Resin
Color of Compound	Amber/ Red/ White

#### **5. INSTALLATION**

##### Horizontal Surfaces:

All of the various #64 RB RESIN CURING COMPOUNDS should be applied immediately after the free water has disappeared from the surface and the concrete surface will not be marred by walking workmen. It is during this time that the concrete is most vulnerable to hairchecking, spalling and other surface defects. Application may be accomplished by low pressure spray equipment (standard garden type sprayer with neoprene hose and gaskets) or soft brush. Power airless spray equipment is recommended for mass concrete application. Uniform surface coverage is essential, avoid puddling in low areas.

##### Vertical Surfaces:

Application should be made immediately after the forms have been removed and walls are rewetted with clear water. Allow excess water to run off before applying #64 RB RESIN CURE. For uniform application on vertical surfaces, the specified rate of application may be achieved by two coats applied at an interval of approximately 2 hours.

##### Clean Up:

Clean brushes, tools, sprayers, and other equipment with mineral spirits before #64 RB RESIN CURE has dried. Use toluol, xylol, or lacquer thinner on dried material.

##### Cautions:

**COMBUSTIBLE.** Keep away from heat sparks and open flame. Use only with adequate ventilation. Avoid prolonged or repeated breathing of vapor or spray mist. Avoid contact with eyes and skin. Do not take internally.

##### First Aid:

In case of skin contact, flush with plenty of water; for eyes, flush with plenty of water for 15 minutes and get medical attention. If exposed to high concentration of vapor, remove to fresh air. If swallowed, CALL A PHYSICIAN IMMEDIATELY, DO NOT INDUCE VOMITING.

##### Composition and Materials:

Hydrocarbon resin in aromatic and aliphatic hydrocarbon solvents.

#### **6. COVERAGES**

200 - 400 square feet per gallon depending upon usage. ASTM-C-309 specification is written on the basis of an application rate of 200 sq. ft. per gallon.

#### **7. GUARANTEE**

All recommendations, statements and technical data contained herein, are based on tests we believe to be reliable and correct, but accuracy and completeness of said tests are not guaranteed and are not to be construed as a warranty, either expressed or implied. User shall rely on his own information and tests to determine the suitability of the product for the intended use and user assumes all risk and liability resulting from his use of the product. Seller's and manufacturer's sole responsibility shall be to replace that portion of the product of this manufacturer which proved to be defective. Neither seller, nor manufacturer shall be liable to the buyer or any third person for any injury, loss or damage directly or indirectly resulting from the use or inability to use the product. Recommendations or statements, other than those contained in a written agreement signed by an officer of the manufacturer, shall not be binding upon the manufacturer or seller.

#### **8. MAINTENANCE**

No special care required.

#### **9. TECHNICAL SERVICES**

Complete technical information and literature are available from authorized Lambert distributors and Lambert Corporation, Orlando, FL.

#### **10. PACKAGING**

55 gallon drums  
5 gallon pails



JHM Corporation

# DAILY REPORT

Form 0049  
Accounting  
Rev. 06/89

O.H. Materials Corp.  
P.O. Box 551  
Findlay, Ohio 45839-0551  
Phone (419) 423-3526

Job No. 7946

Day <u>Tuesday</u>	Date <u>1-23-90</u>	Weather <u>—</u>
Job Site <u>West Lake Beach Rd.</u>	Owner <u>FDOT</u>	
Owner's Representative	Government O.S.C. <u>Jeff Toback</u>	
Code No.		Office use only
Sub Contractor:		
ETL - Findlay Lab		
2 - Incremental Disposal Analysis @ <u>1455 / each</u>		2910
2 - Wastewater Treatment Analysis @ <u>1475 / each</u>		2950
Sub Total		5860 =
1 of these was for the Feickert analysis		
to audit by Findlay office		

J. H. Materials Co. Rep. Ken Simmons

Client Jeff Toback 1/24/90

CLIENT COPY

CASE #: HW00307  
 CASE NAME: LINDA FEICKERT  
 DISTRICT: SOUTHEAST FLORIDA  
 ATTORNEY:  
 PROGRAM: HAZARDOUS WASTE  
 PRIORITY:  
 LATITUDE:  
 FACIL ID:  
 PERMIT #:  
 AGENT:

COUNTY: BROWARD  
 INVESTIGATOR: HURLEY  
 REL PROGRAM:  
 VIOLATION CLASS:  
 LONGITUDE:  
 FACIL NAME: LINDA FEICKERT  
 ISSUED/EXPIRED:

COMMENTS: DEBRIS FROM 519 S.E. 32ND COURT FORT LAUDERDALE INCLUDING  
 HW MATERIAL WAS FOUND ABANDONED ON PROPERTY LOCATED AT 201  
 S.W. 19TH STREET FORT LAUDERDALE. OWNER OF FIRST ADDRESS  
 LIVES IN OKLAHOMA.

\*\*\* RELATED DATES \*\*\*  
 OPEN DATE: WL DATE: INSPECTION: DRAFT NOV: 900705 NOV DATE:  
 DRAFT CO: CO DATE: FINAL ORD: PETITION:  
 CASE RPT: COMPLNT: JUDIC ORD: DEACT:  
 COMP REF: COMP LT: INFR COMP:

\*\*\* CASE CHRONOLOGY \*\*\*  
 DATE ACTIVITY

890925 DEPT. NOTIFIED OF ABANDONED DRUMS @ 201 SW 19TH ST. FT. LAUDER.  
 890928 OTTIM CORP. SAMPLED & REMAILED THE CONTAINERS.  
 891201 DRUMS TRACED TO A WAREHOUSE AT 519 S.E. 32ND CT.  
 900104 LINDA FEICKERT VERIFIES OWNERSHIP AND AT LEAST 2 DRUMS.  
 900515 CASE REFERRED FROM EMERGENCY RESPONSE TO HW SECTION FOR ENF.  
 900705 DRAFT NOV TO TALLY.

7-19-90 Received draft NOV from OGC w/ comments.  
 8-14-90 Second draft NOV to OGC.  
 8-20-90 Draft NOV appraised.  
 9-11-90 NOV sent to Respondent.  
 9-14-90 Respondent called re: NOV.  
 9-23-90 Letter from Respondent requesting IC.  
 10-1-90 Called Respondent RE: ways to resolve NOV.  
 10-15-90 Received letter & costs/Expenses from Respondent  
 11-2-90 Penalties reduced \$2250 → 350.00  
 11-6-90 Called Mr. Feickert RE: Penalty adjustment  
 11-30-90 CO & Promissory Note sent to Respondent for signing.  
 12-28-90 Received signed CO from Respondent

Rec'd 12-5-90



# Florida Department of Environmental Regulation

Southeast District • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406 • 407-964-9668

Bob Martinez, Governor

Dale Twachtman, Secretary

John Shearer, Assistant Secretary  
Scott Benyon, Deputy Assistant Secretary

NOV 30 1990

RECEIVED

DEC 28 1990

Dept. of Environmental Reg.  
West Palm Beach

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Linda Feickert  
Rt. 3 Box 607  
Hulbert, OK 74441

Re: Proposed Final Agency Action (Consent Order) in Case of DER vs. Linda Feickert; O.G.C. Case No. 90-1101.

Dear Ms. Feickert:

The purpose of this letter is to complete the resolution of the violation previously identified by the Department of Environmental Regulation ("DER") in the Notice of Violation (NOV) dated September 11, 1990, a copy of which is attached. The corrective actions required to bring your facility into compliance have been performed. However, you must pay to the Department the amount of \$350.00 to complete the settlement of the violations described in the attached Notice of Violation, along with \$1955.00 to reimburse the DER's costs, for a total of \$2305.00. This payment must be made by certified check or money order to Florida Department of Environmental Regulation and mailed to the Southeast Florida District Office, 1900 South Congress Avenue, Suite A, West Palm Beach, FL 33406, within 20 days of your signing this letter.


Your signing of this letter constitutes your agreement to the terms of the letter. After this letter has been countersigned by the DER and filed with the Clerk of the DER, the letter shall constitute a consent order, which is final agency action of the DER, the terms and conditions of which may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, Florida Statutes. Failure to comply with the terms of this letter once signed by you shall constitute a violation of Section 403.162(1)(b), Florida Statutes.

The DER by countersigning this letter, waives its right to seek judicial imposition of damages, or civil penalties for the violations described above. By signing this letter, you waive your rights as described on the back of this document in the Notice of Rights. If you do not sign and return this letter to the Department at the Southeast District address given above within twenty days of it's receipt, it will be assumed that you are not interested in settling this matter according to the terms described herein, and this matter will be referred to the Department's


Ms. Linda Feickert  
Page 2 of 3  
O.G.C. Case No. 90-1101

Office of General Counsel with a recommendation that formal enforcement action be taken against you.

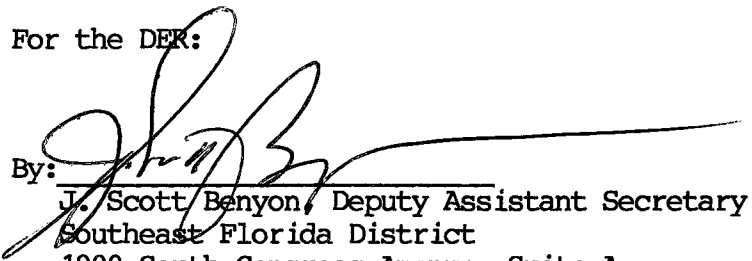
Sincerely,

  
J. Scott Benyon  
Deputy Assistant Secretary

For: Linda Feickert

By:   
Ms. Linda Feickert  
Rt. 3 Box 607  
Hulbert, OK 74441

For the DER:

By:   
J. Scott Benyon, Deputy Assistant Secretary  
Southeast Florida District  
1900 South Congress Avenue, Suite A  
West Palm Beach, FL 33406  
Telephone: 407/433-2650

ENTERED this 18<sup>th</sup> day of January, <sup>1991</sup>1990, in  
West Palm Beach, Florida.

JSB/gh

Attachments

Copies furnished to:

Office of General Counsel, DER, Tallahassee  
Broward County Environmental Quality Control Board  
File, Reporting Coordinator  
West Palm Beach DER Files



## NOTICE OF RIGHTS

Persons whose substantial interests are affected by the proposed agency action described in this document have a right, pursuant to Section 120.57, F.S., to petition for an administrative determination (hearing) on the proposed action. The Petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the (persons named) above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative determination (hearing) pursuant to Section 120.57, F.S.

The Petition shall contain the following information: (a) The name, address, and telephone number of each petitioner; the Department's identification number and the county in which the subject matter or activity is located; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject agency (proposed) action have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.576, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed.

\* \* \* \* \*

A party who is adversely affected by this Final Order is entitled to Judicial Review pursuant to Section 120.68, F.S. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing one copy of a Notice of Appeal with the Agency Clerk of the Division of Administrative Hearings and a second copy, accompanied by filing fees prescribed by law, with the District court of Appeal, First District, or with the District Court of Appeal in the Appellate District where the party resides. The Notice of Appeal must be filed within 30 days of rendition of the Order to be reviewed.


Promissory Note

Date:

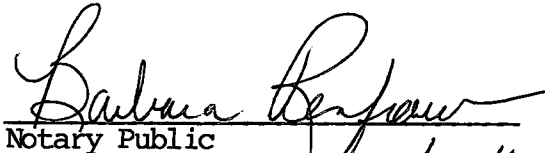
Linda Feickert, an Oklahoma citizen ("Respondent"), promises to pay to the Florida Department of Environmental Regulation, an agency of the State of Florida ("Department"), the sum of \$2305.00 for penalty settlement as set forth below:

- 1) A check for \$1955.00 to cover costs and expenses incurred by the Department was received from the Respondent on October 15, 1990. The check is being held pending the entry to the Consent Order (attached). Once the Consent Order has been signed and executed by the Department, the check will be applied to cover costs and expenses of the Department.
- 2) The remaining \$350.00 will be due on or before January 31, 1991, as payment in full hereunder.

By:

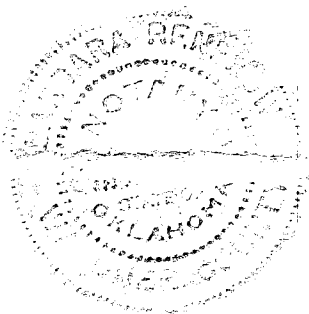
  
Ms. Linda Feickert  
Rt. 3 Box 607  
Hulbert, OK 74441

Signed the 24<sup>th</sup> day of December, 1990

  
Notary Public

My Commission Expires

6-11-94



UNITED STATES POSTAL SERVICE

OFFICIAL BUSINESS

**SENDER INSTRUCTIONS**

Print your name, address and ZIP Code in the space below.

- Complete Items 1, 2, 3, and 4 on the reverse.
- Attach to front of article if space permits, otherwise affix to back of article.
- Endorse article "Return Receipt Requested" adjacent to number.

RETURN  
TO



RECEIVED

JAN 29 1991

Dept. of Environmental Reg.

Print Sender's name, address, and ZIP Code in the space below.

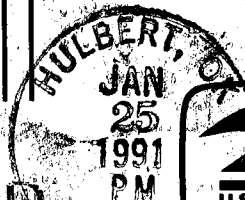
*Mr. G. Guiney Hurley (Mayie)*

STATE OF FLORIDA

DEPARTMENT OF ENVIRONMENTAL REGULATION

1900 SOUTH CONGRESS AVE., SUITE A

WEST PALM BEACH, FL 33406



PENALTY FOR PRIVATE  
USE, \$300

**SENDER:** Complete items 1 and 2 when additional services are desired, and complete items 3 and 4.

Put your address in the "RETURN TO" Space on the reverse side. Failure to do this will prevent this card from being returned to you. The return receipt fee will provide you the name of the person delivered to and the date of delivery. For additional fees the following services are available. Consult postmaster for fees and check box(es) for additional service(s) requested.

1. ☐ Show to whom delivered, date, and addressee's address. 2. ☐ Restricted Delivery  
(Extra charge) (Extra charge)

3. Article Addressed to:

Ms. Linda Leichert  
Rt. 3 Box 602  
Hulbert, Ok. 74441

4. Article Number

P645 678 000

Type of Service:

- ☐ Registered ☐ Insured  
☒ Certified ☐ COD  
☐ Express Mail ☐ Return Receipt  
for Merchandise

Always obtain signature of addressee  
or agent and DATE DELIVERED.

5. Signature — Addressee

X Linda Leichert

6. Signature — Agent

X

7. Date of Delivery

1-25-91

8. Addressee's Address (ONLY if  
requested and fee paid)



# *Florida Department of Environmental Regulation*

**Southeast District** • 1900 S. Congress Ave., Suite A • West Palm Beach, Florida 33406 • 407-964-9668

Bob Martinez, Governor

Dale Twachtman, Secretary

John Shearer, Assistant Secretary  
Scott Benyon, Deputy Assistant Secretary

JAN 15 1991

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ms. Linda Feickert  
Rt. 3 Box 607  
Hulbert, OK 74441

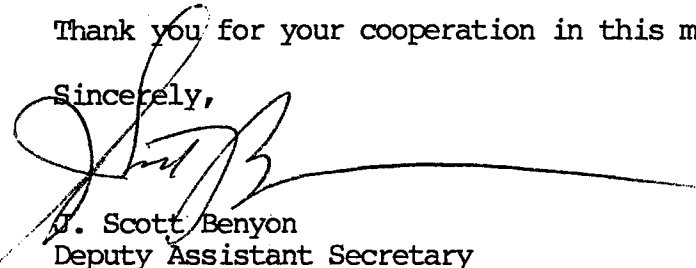
Dear Ms. Feickert:

RE: Linda Feickert; Consent Order; OGC Case No. 90-1101.

Enclosed for your implementation is the fully executed and filed Consent Order and Promissory Note in the above-styled case. Please familiarize yourself with the compliance dates and terms of the Consent Order so the complete and timely performance of those obligations is accomplished.

Thank you for your cooperation in this matter.

Sincerely,

  
D. Scott Benyon  
Deputy Assistant Secretary

JSB/gh

cc: Office of General Counsel, DER, Tallahassee  
Broward County Office of Natural Resource Protection  
File, Reporting Coordinator  
West Palm Beach DER Files



State of Florida  
DEPARTMENT OF ENVIRONMENTAL REGULATION

For Routing To Other Than The Addressee

To: _____	Location: _____
To: _____	Location: _____
To: _____	Location: _____
From: _____	Date: _____

# Interoffice Memorandum

News Release Requested: YES ☐ [ ]  
NO ☒ [X]

TO: Wayne Stevens  
Office of Legislative and Public Affairs

THROUGH: Larry Morgan  
Office of General Counsel

FROM: Scott Benyon  
Southeast Florida Deputy Assistant Secretary

SUBJECT: News Release: LINDA FEIKERT  
Case Name

DATE: 1-10-91

Attached is a ☒ [X] Consent Order  
☐ [ ] Notice of Violation

for the preparation of a news release for the referenced case.  
This case has been identified as a major enforcement action for  
the following reasons:

- ☐ [ ] Case requires undertaking significant environmental corrective measures to protect human health or the environment or to abate imminent hazards.
- ☒ [X] Case involves the imposition of significant fines or settlements. \$ 350.00 settlement  
Amount \$ 2305.00 \$ 1955.00 costs and expenses
- ☐ [ ] Case requires the responsible party to undertake activities having major impact on the community.

If you require any additional factual information, please  
contact Ginny Hurly of this office.  
Suncom 221-5005

enclosure

JSB/152

cc: Rick Wilkins (w/o enclosure)

## CHAIN-OF-CUSTODY TAG

SAMPLE ID NUMBER

1

SAMPLE SOURCE

black Lambert drum

Ft. L.

ANALYSES REQUIRED

DATE TAKEN

9/26/89

TIME

10:35 am

PRESERVATIVE

REMARKS

mineral spirits?

SAMPLED BY

Jeff Tobergte

SIGNED

Jeff Tobergte

WITNESSED

## CHAIN-OF-CUSTODY TAG

SAMPLE ID NUMBER

3

SAMPLE SOURCE

blue 5-gal. jug  
"Metal Brite"

Ft. L.

ANALYSES REQUIRED

PH

DATE TAKEN

9/26/89

TIME

PRESERVATIVE

REMARKS

phosphoric acid

SAMPLED BY

Jeff Tobergte

SIGNED

Jeff Tobergte

WITNESSED



## CHAIN-OF-CUSTODY TAG

SAMPLE ID NUMBER

4

SAMPLE SOURCE

blue 5-gal. jug  
"Metal Brite"  
F.L.

ANALYSES REQUIRED

pH

DATE TAKEN

9/26/89

TIME

PRESERVATIVE

REMARKS

phosphoric acid

SAMPLED BY

Jeff Tobargte

SIGNED

Jeff Tobargte

WITNESSED

## CHAIN-OF-CUSTODY TAG

SAMPLE ID NUMBER

5

SAMPLE SOURCE

blue "sodium hypochlorite jug

Ft. L.

ANALYSES REQUIRED

DATE TAKEN

9/26/89

TIME

PRESERVATIVE

REMARKS

transmission fluid

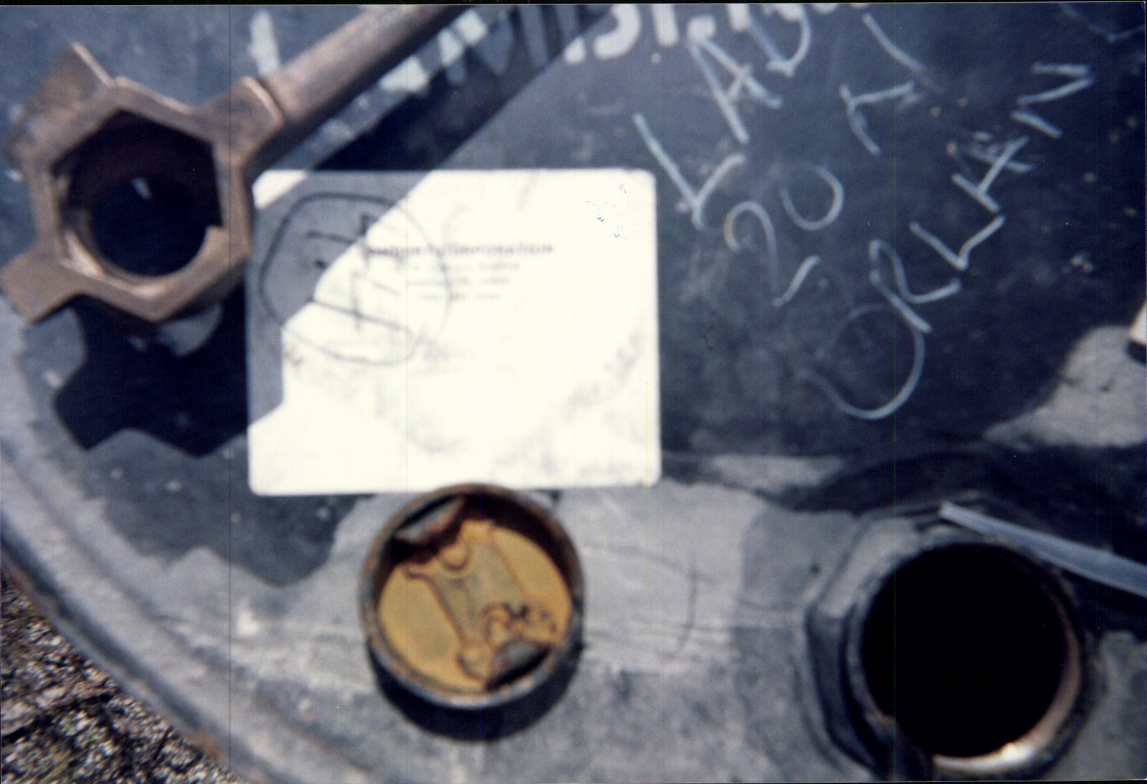
SAMPLED BY

Jeff Tobergte

SIGNED

Jeff Tobergte

WITNESSED



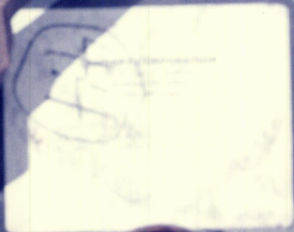
GT  
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FHL



SWISBERT / CO. OK

LAB 207  
ORLANDO





















D.O. APPROVE  
S32200

CLEAN  
LAMBER





BEACH

BEACH  
SODIUM  
HYPOCHLORITE







OIL SPILL REMOVER  
LOW TOXIC

UP  
OIL T





55-GAL.  
LAMBERT CORP.



207  
ORLANDO



155-GAL.  
LAMBERT / CORP.  
LA 201  
ORLANDO

Keyes  
No. 1 ON THE SOUTH











