



# Florida Department of Environmental Protection

Northwest District  
160 Governmental Center  
Pensacola, Florida 32502-5794

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary

August 16, 2007

## **CERTIFIED, RETURN RECEIPT REQUESTED**

Mr. Joseph Wier  
Environmental Coordinator  
McKenzie Tank Lines, Inc.  
Post Office Box 1200  
Tallahassee, Florida 32302

**SUBJECT:** Short Form Consent Order  
Proposed Settlement of McKenzie Tank Lines (St. Marks Terminal)  
OGC File No.: 07-1467-65-HW

Dear Mr. Wier:

The purpose of this letter is to complete the resolution of the matters previously identified by the Department during a hazardous waste inspection on February 28, 2007, at the McKenzie Tank Lines (St. Marks Terminal) located in St. Marks, Florida. Thank you for meeting with us on July 18, 2007 to discuss an amicable resolution of the matters which are specifically outlined in the attached Warning Letter and Inspection Report. If you agree to the terms outlined in this letter, please have the appropriate individual sign the last page where it states, "For the Respondent."

The corrective actions required to bring your facility into compliance have been performed. The Department finds that you were in violation of the rules and statutes cited in the attached Inspection Report, subparagraphs (10.a) through (10.b). The civil penalties are apportioned as follows: \$2,600 for violation of Rule 62-710.401(6), Florida Administrative Code and \$500 for violation of Rule 62-710.850(5)(a), Florida Administrative Code. In order to resolve the matters identified in the attached Warning Letter, you are assessed civil penalties in the amount of \$3,100, along with \$250 to reimburse the Department costs, for a total of \$3,350.

The Department acknowledges that the payment of these civil penalties by you does not constitute an admission of liability. This payment must be made payable to the Department of Environmental Protection by cashier's check or money order and shall include the OGC File Number assigned above and the notation "Ecosystems Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, District Director, Northwest District, 160 Governmental Center, Pensacola, Florida 32502-5794, within 60 days of your signing this letter.

By signing this letter you are accepting the Department's offer to resolve this matter on these terms. If you elect to sign this letter, please return it to the Department at the address indicated above. The Department will then countersign the letter and file it with the Clerk of the Department. When the signed letter is filed with the Clerk, the letter shall constitute final agency action of the Department which shall be enforceable pursuant to Section 120.69 and 403.121, Florida Statutes.

If you do not sign and return this letter to the Department at the District address by September 18, 2007, the Department will assume that you are not interested in settling this matter on the above described terms, and will proceed accordingly. None of your rights or substantial interests are determined by this letter unless you sign it and it is filed with the Department Clerk.

Sincerely,



Michael S. Kennedy, P.G.  
Program Administrator  
Waste Management Program

**FOR THE RESPONDENTS:**

I, \_\_\_\_\_ on behalf of \_\_\_\_\_, **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

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



**FOR DEPARTMENT USE ONLY**

DONE AND ENTERED this \_\_\_\_ day of \_\_\_\_\_, 2007.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

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Michael S. Kennedy, P.G.  
Program Administrator  
Waste Management Program

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

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Clerk

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Date

Encl(2): Warning Letter dtd 07/02/07  
Inspection Report dtd 02/28/07  
cc: FDEP Office of General Counsel, MS 35

## NOTICE OF RIGHTS

Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office 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 hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

(a) The Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes; (c) A statement of how and when each petitioner received notice of the Consent Order; (d) A statement of how each petitioner's substantial interests are affected by the Consent Order; (e) A statement of the material facts disputed by petitioner. If there are none, the petition must so indicate; (f) A statement of facts which petitioner contends warrant reversal or modification of the Consent Order; (g) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; and (h) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Consent Order.

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 Consent Order 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 Sections 120.569 and 120.57, Florida Statutes, 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 pursuant to Rule 28-106.205, Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.