



Florida Department of Environmental Protection

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

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

May 15, 2009

Sent via e-mail:
aswindall@gwrr.com

WARNING LETTER

Mr. Dewayne Swindall
General Manager
Bay Line Railroad, LLC.
PO Box 35098
Panama City, Florida 32412-5098

Dear Mr. Swindall:

The purpose of this letter is to inform you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. A field inspection by Department of Environmental Protection personnel on April 23, 2009 of Bay Line Railroad, LLC. in Panama City, Bay County, Florida, indicates that violations of the Resource Conservation and Recovery Act (RCRA) and Chapters 376 and 403, Florida Statutes and Rules may exist at the above-described facility. These possible violations are described in the "Summary of Potential Violations and Areas of Concern" section of the enclosed Inspection Report. (All Title 40 Code of Federal Regulations provisions have been adopted by reference in Florida Administrative Code, Chapter 62-730).

The activities observed during the Department's field inspection and any other activities at your facility that may be contributing to violations of the above-described statutes or rules may involve potential liability for civil penalties and should be ceased. Operation of a facility in violation of state statutes or rule may result in liability for damages and restoration as set forth in Section 403.727, Florida Statutes.

You are requested to attend a meeting with Department personnel to discuss this matter at the Northwest District Branch Office at 2353 Jenks Avenue on May 27, 2009, at 10:30 A.M. (CDT). The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter.

Bay Line Railroad. LLC.
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Please be informed that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), Florida Statutes. We look forward to your cooperation in completing the investigation and resolution of this matter. If you have any questions, please contact Thomas Dillard at telephone (850) 872-4375, extension 110.

Sincerely,

A handwritten signature in black ink that reads "Michael S. Kennedy". The signature is written in a cursive style with a large, prominent initial "M".

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

MSK;jbl

Enclosure: Hazardous Waste Inspection Report
c: Thomas.Dillard@dep.state.fl.us



Florida Department of
Environmental Protection
Hazardous Waste Inspection Report

FACILITY INFORMATION:

Facility Name: Bay Line Railroad L L C
On-Site Inspection Start Date: 04/23/2009 **On-Site Inspection End Date:** 04/23/2009
ME ID#: 56074 **EPA ID#:** FLD984229906
Facility Street Address: 1 Edwards Dr, Panama City, Florida 32405-6097
Contact Mailing Address: PO Box 35098, Panama City, Florida 32412-5098
County Name: Bay **Contact Phone:** (850) 769-6661

NOTIFIED AS:

Transporter

INSPECTION TYPE:

Routine Inspection for Hazardous Waste Transporter facility

INSPECTION PARTICIPANTS:

Principal Inspector: Thomas Dillard, Inspector
Other Participants: Mike Taylor, Operations Manager; Roger Leonard, Dispatcher; Dewayne Swindall , General Manager

LATITUDE / LONGITUDE: Lat 30° 10' 58.1222" / Long 85° 38' 36.9654"

SIC CODE: 4011 - Trans. & utilities - railroads, line-haul operating

TYPE OF OWNERSHIP: Private

Introduction:

Bay Line Railroad (BLRR) has been in operation since 1905 in Panama City. The former name was Atlanta & Saint Andrews Bay Railway. In 2007, ownership of BLRR changed to a new parent company, Genesee and Wyoming, with District offices in Jacksonville, FL. On June 2, 2008 the facility's General Manager Jerry Hood retired. During the current inspection, Dewayne Swindall was identified as the new General Manager.

Process Description:

BLRR transports rail cars to and from local customers. No passenger service is provided. Hazardous waste rail cars are generated solely from Arizona Chemical Panama City Plant. The tank cars are placarded as "RQ Waste Flammable Liquids" and manifests reflect hazardous waste codes D001 and F003. Rail cars from Arizona Chemical are transported to either Systech Environmental Corp. in Paulding, Ohio (OHD005048947) or Rhodia T/C in Baton Rouge, Louisiana (LAD008161234). This operation currently employs 48 personnel, which includes the Panama City maintenance shop, the Dothan facility and yard personnel. The maintenance shop was not inspected during this inspection.

OBSERVATIONS

During the inspection, the following were observed:

Since the previous inspection on 6-28-08, the facility has received and transported nine shipments of hazardous waste. No deficiencies were found in a review of these manifests. Personnel reported that presently there were no rail containers of hazardous waste on site.

Annual safety training certificates for personnel were reviewed with no deficiencies found.

Facility security plan was revised in January 2008. Haz Mat Response Program was available for review. Certificates of training for personnel were in this folder. Nate Sledge, who was noted on

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facility haz waste car inspection forms attached to all but one manifest, was noted as having a certificate of training dated 9-11-07. Personnel said this was a once every three year training requirement.

State of Florida Hazardous Waste Transporter Certificate of Approval posted on site was dated August 13, 2007 and reflected an insurance policy with an expiration date of August 1, 2008 issued by Lexington Insurance.

New Potential Violations and Areas of Concern:**Checklist Independent Potential Violations and Areas of Concern**

Type:	Violation
Rule:	62-730.170(2)(a)
Explanation:	Facility failed to provide Department proof of financial responsibility as required in Rule 62-730.170(2)(a). Last report to Department dated August 13, 2007 reflected expiration date of August 1, 2008.
Corrective Action:	Have and maintain financial responsibility requirements as defined in Rule 62-730.170(2)(a).

Type:	Violation
Rule:	62-730.170(3)
Explanation:	During the visit the facility provided for review a certificate of insurance which expired August 1, 2008. Facility not able to show proof of insurance in effect since that date to the day of inspection April 23, 2009. A check with FDEP Tallahassee shows that subsequent to a Department inspection on June 26, 2008, a renewal packet was mailed to the Panama City address in July 2008, attention Mr. Jerry Hood, with no subsequent reply from the facility.
Corrective Action:	Complete annual financial responsibility requirements as required.

Type:	Violation
Rule:	62-730.170(2)(e)
Explanation:	The facility failed to annually submit to the Department two originally signed Transporter Status Forms, Form 62-730.900(5)(d), requirements. Last submittal by facility to Department dated August 2007.
Corrective Action:	Complete annual requirements as defined in Rule 62-730.170(2)(e).

Type:	Violation
Rule:	62-730.150(2)(b)
Explanation:	The facility came under a new parent company in 2007 and Notification information was not updated by Form 8700-12FL as of current visit in April 2009.
Corrective Action:	Complete and submit updated subsequent notification Form 8700-12FL as required.

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Summary of Potential Violations and Areas of Concern:Potential Violations

Rule Number	Area	Date Cited	Explanation
Checklist Independent Violations 62-730.170(2)(a)		04/23/2009	Facility failed to provide Department proof of financial responsibility as required in Rule 62-730.170(2)(a). Last report to Department dated August 13, 2007 reflected expiration date of August 1, 2008.
62-730.170(3)		04/23/2009	During the visit the facility provided for review a certificate of insurance which expired August 1, 2008. Facility not able to show proof of insurance in effect since that date to the day of inspection April 23, 2009. A check with FDEP Tallahassee shows that subsequent to a Department inspection on June 26, 2008, a renewal packet was mailed to the Panama City address in July 2008, attention Mr. Jerry Hood, with no subsequent reply from the facility.
62-730.170(2)(e)		04/23/2009	The facility failed to annually submit to the Department two originally signed Transporter Status Forms, Form 62-730.900(5)(d), requirements. Last submittal by facility to Department dated August 2007.
62-730.150(2)(b)		04/23/2009	The facility came under a new parent company in 2007 and Notification information was not updated by Form 8700-12FL as of current visit in April 2009.

Areas of Concern

No Areas of Concern

ATTACHMENTS:

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Entrance to facility yard area



Yard Office



Conclusion:

The facility appears to be out-of-compliance at the time of this inspection.


The facility needs to perform the corrective actions identified in each potential violation cited above.

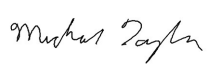
Inspection Date: 04/23/2009


Signed:


A hazardous waste compliance inspection was conducted on this date, to determine your facility's compliance with applicable portions of Chapters 403 & 376, F.S., and Chapters 62-710, 62-730, 62-737, & 62-740 Florida Administrative Code (F.A.C.). Portions of the United States Environmental Protection Agency's Title 40 Code of Federal Regulations (C.F.R.) 260 - 279 have been adopted by reference in the state rules under Chapters 62-730 and 62-710, F.A.C. The above noted potential items of non-compliance were identified by the inspector(s).

This is not a formal enforcement action and may not be a complete listing of all items of non-compliance discovered during the inspection.

Thomas Dillard	Inspector	
PRINCIPAL INSPECTOR NAME	PRINCIPAL INSPECTOR TITLE	
	FDEP	4/23/2009
PRINCIPAL INSPECTOR SIGNATURE	ORGANIZATION	DATE

Mike Taylor	Operations Manager	
REPRESENTATIVE NAME	REPRESENTATIVE TITLE	
	Bay Line Railroad	4/23/2009
REPRESENTATIVE SIGNATURE	ORGANIZATION	DATE

Roger Leonard	Dispatcher	
REPRESENTATIVE NAME	REPRESENTATIVE TITLE	
	Bay Line Railroad	4/23/2009
REPRESENTATIVE SIGNATURE	ORGANIZATION	DATE

Dewayne Swindall	General Manager	
REPRESENTATIVE NAME	REPRESENTATIVE TITLE	
	Bay Line Railroad	4/23/2009
REPRESENTATIVE SIGNATURE	ORGANIZATION	DATE

NOTE: By signing this document, the Site Representative only acknowledges receipt of this Inspection Report and is not admitting to the accuracy of any of the items identified by the Department as "Potential Violations" or areas of concern.