

Jeb Bush  
Governor

# Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

December 6, 2001

CERTIFIED MAIL NO. P 506 065 893  
RETURN RECEIPT REQUESTED



Entered into  
**OCULUS**  
South District

Arthur T. Hagan  
Howco Environmental Services, Inc.  
3701 Central Avenue  
St. Petersburg, Florida 33713

RE: Lee County - HW  
Howco Environmental Services, Inc  
2650-A Edison Avenue  
OGC File No: 01-1833  
EMA - Caloosahatchee to Lee Coast

Dear Mr. Hagan:

This will acknowledge receipt of Mr. Thompson's letter of November 28, 2001. His letter has addressed all but one of the issues outlined in our November 14, 2001 letter. Enclosed is Consent Order No. 01-1833 to resolve the remediation issue at the above mentioned site.

Please review and sign the attached Consent Order and then forward it to Mr. Ryan for signature. Please then return the entire Order to this office. If the Order is not signed and returned to us by December 28, 2001, we will assume that Howco Environmental does not wish to enter into this Order.

If you have any questions regarding this matter please feel free to contact Angela Dempsey at our Office of General Counsel, (850) 921-9702 or Charles Emery III at (941) 332-6975. Thank you for your cooperation in this matter.

Sincerely

Richard W. Cantrell  
Director of  
District Management

Enclosures

RWC/CE/vo

cc: Angela Dempsey, OGC Tallahassee, w/encl.  
Mike Redig, Tallahassee, w/encl.  
Laurel Lockett, w/encl.

"More Protection, Less Process"

Printed on recycled paper.

Is your RETURN ADDRESS completed on the reverse side?

**SENDER:**

- ☐ Complete items 1 and/or 2 for additional services. Complete items 3, 4a, and 4b.
- ☐ Print your name and address on the reverse of this form so that we can return this card to you.
- ☐ Attach this form to the front of the mailpiece, or on the back if space does not permit.
- ☐ Write "Return Receipt Requested" on the mailpiece below the article number.
- ☐ The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- 1. ☐ Addressee's Address
- 2. ☐ Restricted Delivery

3. Article Addressed to:

MR ARTHUR T HAGAN  
HOWCO ENVIRONMENTAL SERVICES  
3701 CENTRAL AVE  
ST PETERSBURG FL 33713

4a. Article Number

P 506 065 893

4b. Service Type

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

7. Date of Delivery

12/10/01

5. Received By: (Print Name)

Katarzyna Hagan

6. Signature (Addressee or Agent)

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

CE/vo

PS Form 3811, December 1994

102595-99-B-0223

Domestic Return Receipt

Thank you for using Return Receipt Service.

P 506 065 893

US Postal Service

**Receipt for Certified Mail**

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent to	
HOWCO ENVIRONMENTAL SERV	
Street & Number	
3701 CENTRAL AVE	
Post Office, State, & ZIP Code	
ST PETERSBURG FL 33713	
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	

PS Form 3800, April 1995

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION,

IN THE OFFICE OF THE  
SOUTH DISTRICT

Complainant,

OGC FILE NO: 01-1833  
EPA ID # FL0001000611

HAGAN HOLDING COMPANY,

Respondent.

and

RYAN TIRE & PETROLEUM, INC.,  
RCRA PROPERTY OWNER

**CONSENT ORDER**

This Consent Order is made and entered into between the State of Florida, Department of Environmental Protection ("Department"), Hagan Holding Company (Respondent) and Ryan Tire & Petroleum, Inc. (RCRA Property Owner or RPO). This Consent Order is intended to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and the Respondent admits the matters set forth in paragraphs 1 - 7 below.

1. The Department is an administrative agency of the State of Florida. The Department has the responsibility and authority to protect the air and water resources of the State pursuant to Chapters 403 and 376, Florida Statutes (F.S.), and Chapter 62, Florida Administrative Code (F.A.C.), including but not limited to 40 Code of Federal Regulations (C.F.R.) 264.111 as adopted by reference in Rule 62-730.180 (2) F.A.C.

2. Respondent is an active Florida Corporation registered with the Secretary of State, which operates a used oil and industrial wastewater treatment, disposal and recycling facility (Facility). The Facility is located at 2650-A Edison Avenue, Fort Myers, Florida, Latitude 26° 38' 01" N and Longitude 81° 51' 33" W. The Respondent leases the Facility from the RPO.

3. The RPO is a fuel distribution facility which owns the real property on which the Facility is located.

4. Respondent and RPO are each persons within the meaning of Sections 403.031(5), 403.703(4), F.S. and §403.727(4), F.S. (2001)

5. Respondent leases a portion of RPO's fuel storage area on which it maintains four 20,000-gallon storage tanks. Two tanks are registered to store used oil. Two other tanks are registered as storing miscellaneous petroleum products that include petroleum contaminated wastewater and used antifreeze. The tank containing petroleum-contaminated water is identified as tank three and the used antifreeze tank is identified as tank four.

6. Respondent collects used oil; petroleum contaminated wastewater and used antifreeze from various customers within the Department's South District. These materials are brought to this facility for storage. Eventually these materials are transported to Respondent's treatment and recycling facility located at 843 43<sup>rd</sup> Street St. Petersburg, Pinellas County, Florida.

7. On December 6 and 11, 2000 the Department inspected the Facility and observed a violation of 40 CFR 279.45(e)(2). See attached Inspection Report as Exhibit I. When correcting this violation, the Facility generated nineteen 55-gallon drums of hazardous waste. While managing these drums on site the Department observed drums leaking on September 26 & 28, 2001 and October 11, 2001. See attached inspection reports identified as Exhibits II, III and IV. As a result of the inspections on September 26 and October 11, 2001, the Respondent was sent a warning letter dated October 25, 2001(attached as Exhibit V).



Having reached a resolution of the matter Respondent and Department mutually agree and it is,

ORDERED:

8. Effective immediately, Respondent shall comply with all Department rules regarding hazardous waste management. Respondent shall correct and redress all violations listed above and shall comply with all applicable sections in 62-730 F.A.C. including but not limited to all applicable sections of 40 C.F.R. Parts 260 through 270 which have been adopted by reference in accordance with authority delegated to the Department by the United States Environmental Protection Agency ("USEPA") under the federal Resource Conservation and Recovery Act ("RCRA"). All time periods shall run from the effective date of this Consent Order, which is the date entered by the Clerk of the Department's South District Office.

9. Respondents shall abate all discharges at or from the Facility to the soil, ground water and/or surface waters of the state that have caused or are reasonably likely to cause any violation of the Department's water quality minimum criteria and standards.

10. Respondent shall implement RCRA closure, post-closure and corrective actions in the manner and within the time frames set forth in the document entitled "Clean Closure Plan For Hazardous Waste Facilities" incorporated herein as Exhibit VI. Such time frames shall begin upon the effective date of this Consent Order.

11. This Consent Order is the "Order" referred to in Exhibit VI. Except when the context indicates otherwise, as used in this Consent Order and Exhibit VI, "Respondent" shall mean RCRA facility operator and RPO shall mean RCRA Property Owner.

12. Respondent shall pay to the Department \$5000 per year in oversight fees for each year from 2001 until all assessment and remedial actions required by Exhibit VI are completed. Payment shall be made as follows: Within 60 days of the effective date of this Consent Order, Respondent shall submit payment of \$5000 for the year 2001. Thereafter, Respondent shall

submit a payment of \$5000 to the Department on December 1 of each year, up to and not including the year that all assessment and remedial actions required by Exhibit VI is determined by the Department to be completed. Each payment instrument shall be made payable to the "Department of Environmental Protection" and shall include thereon the OGC number assigned to this Consent Order and the notation "Water Quality Assurance Trust Fund." The payments shall be sent to the Department of Environmental Protection, Waste Program Administrator, South District Office, P.O. Box 2549, Fort Myers Florida 33902-2549.

13. Respondent agrees to pay the Department stipulated penalties in the amount of \$500.00 per day for each and every day Respondent fails to timely comply with any of the requirements of paragraphs 8, 9, 10, 12, 14, 15, 16, 23 and 27 of this Consent Order. A separate stipulated penalty may be assessed for each violation. The Department may make demands for payment at any time after violations occur. Failure of the Department to make a demand for payment shall not be construed as a waiver of the Department's right to demand such payment for the same or any other violation. Payment of stipulated penalties shall not relieve Respondent of any obligation under this Consent Order. Within 30 days of written demand from the Department, Respondent shall make payment of the appropriate stipulated penalties to "The Department of Environmental Protection" by cashier's check or money order and shall include thereon the OGC number assigned to this Consent Order and the notation "Ecosystem Management and Restoration Trust Fund". Any penalties assessed under this paragraph shall be in addition to the oversight fee agreed to in paragraph 10 of this Consent Order. Nothing in this paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Consent Order. If the Department is required to file a lawsuit to recover stipulated penalties under this paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Consent Order in an amount greater than the stipulated penalties due under this paragraph.

14. Respondent and RPO shall allow all authorized representatives of the Department to have access to the property at reasonable times for the purpose of determining compliance with the terms of this Consent Order and the rules of the Department.

15. With respect to off-site properties not owned by the RPO, the Respondent shall use all reasonable efforts, including but not limited to correspondence, telephone calls, personal contacts, drafting and redrafting agreements, and payment of a fee, to obtain any access to real property necessary for work to be performed in the implementation of this Consent Order. If necessary access cannot be obtained by Respondent, or if obtained, is revoked by owners or entities controlling access to the properties to which access is necessary, Respondent shall notify the Department within five business days of such refusal or revocation. The Department may at any time seek to obtain such access as is necessary to implement the terms of this Consent Order. Respondent shall reimburse the Department for any damages, costs, or expenses, including expert and attorneys' fees, that the Department is ordered to pay, or that the Department incurs in connection with its efforts to obtain necessary access to said property. Respondent shall pay these sums to the Department, or arrange a payment schedule with the Department, within 30 days of demand by the Department.

16. Respondent shall provide within a reasonable time at its expense a permanent safe drinking water supply meeting all drinking standards set forth in Chapter 62-522 F.A.C. to replace any potable water well that is shown by chemical and hydrogeologic analysis to be contaminated by Respondent's operations.

17. Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, hereby waives its right to seek judicial imposition of damages or civil penalties for alleged violations outlined in this Consent Order.

18. Respondent waives any right to an administrative hearing on the terms of this Consent Order pursuant to §§120.569 and 120.57, F.S., and any right to appeal this Consent Order pursuant to §120.68, Florida Statutes. With regard to any determination made by the Department pursuant to this Consent Order, Respondent may file a Petition for Formal or Informal Administrative Proceeding pursuant to §§120.569 and 120.57, F.S., and Chapters 62-110 and 28-106, F.A.C. The petition must conform with the requirements of Rule 28-106.201(1) and (2), F.A.C. and must be received by the Department's Office of General Counsel, 3900 Commonwealth Blvd., Tallahassee, Florida 32399-3000, within 21 days after receipt of notice from the Department of any determination either Respondent wishes to challenge. Failure to file a petition within this time period shall constitute a waiver by the Respondent of its right to request an Administrative proceeding. In any proceeding instituted pursuant to this paragraph, the Petitioning Respondent shall have the burden of proving that the Department's determination was arbitrary and capricious. The Department's determination, upon expiration of the 21 day time period if no petition is filed, or the Department's Final Order as a result of the filing of the petition, shall be incorporated by reference into this Consent Order and made a part of it. All other aspects of the Consent Order shall remain in full force and effect at all times. If the Respondent seeks an administrative proceeding pursuant to this paragraph, the Department may file suit in lieu of or in addition to holding the administrative proceeding to obtain judicial resolution of all the issues unresolved at the time of the request for administrative proceeding.

19. Nothing herein shall be construed to limit the authority of the Department to undertake any action against the Respondent in response to, or to recover the costs of responding to conditions at or from the site which may present a threat to the public health, safety, welfare or the environment, if:

- (a) The conditions were previously unknown to or undetected by the Department;
- (b) The conditions result from the implementation of the requirements of this Consent Order;

or a failure to implement said requirements; or

(c) Other previously unknown facts arise or are discovered after entry of this Consent Order.

20. 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 name, address, and telephone number of each petitioner; the Department's Consent Order 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 Consent Order; (c) A statement of how each petitioner's substantial interests are affected by the Consent Order; (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 Consent Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Consent Order; (g) 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.

A person whose substantial interests are affected by the Consent Order may file a timely petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes, or may choose to pursue mediation as an alternative remedy under Section 120.573, Florida Statutes, before the deadline for filing a petition. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement. The procedures for pursuing mediation are set forth below.

Mediation may only take place if the Department and all the parties to the proceeding agree that mediation is appropriate. A person may pursue mediation by reaching a mediation agreement with all parties to the proceeding (which include the Respondent, the Department, and any person who has filed a timely and sufficient petition for a hearing) and by showing how the substantial interests of each mediating party are affected by the Consent Order. The agreement must be filed in (received by) the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within 10 days after the deadline as set forth above for the filing of a petition.

The agreement to mediate must include the following:

- (a) The names, addresses, and telephone numbers of any persons who may attend the mediation;
- (b) The name, address, and telephone number of the mediator selected by the parties, or



a provision for selecting a mediator within a specified time;

- (c) The agreed allocation of the costs and fees associated with the mediation;
- (c) The agreement of the parties on the confidentiality of discussions and documents introduced during mediation;
- (d) The date, time, and place of the first mediation session, or a deadline for holding the first session, if no mediator has yet been chosen;
- (e) The name of each party's representative who shall have authority to settle or recommend settlement; and
- (f) Either an explanation of how the substantial interests of each mediating party will be affected by the action or proposed action addressed in this notice of intent or a statement clearly identifying the petition for hearing that each party has already filed, and incorporating it by reference.
- (h) The signatures of all parties or their authorized representatives.

As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for requesting and holding an administrative hearing. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons whose substantial interests will be affected by such a modified final decision of the Department have a right to petition for a hearing only in accordance with the requirements for such petitions set forth above, and must therefore file their petitions within 21 days of receipt of this notice. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Florida Statutes, remain available for



disposition of the dispute, and the notice will specify the deadlines that then will apply for challenging the agency action and electing remedies under those two statutes.

21. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit future violations of applicable statutes or the rules promulgated thereunder not covered by the terms of the Consent Order, and to seek restitution for environmental damages should the Department conclude that clean up of the contaminated area to target cleanup levels (TCLs) is not feasible; or should the Respondent fail or refuse to comply with any legal obligations which may apply with respect to the contaminated area.

22. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to §§120.69 and 403.121, F.S. Failure to comply with the terms of this Consent Order shall constitute a violation of § 403.727 F.S. Respondent is fully aware that violation of the terms of this Consent Order may subject the Respondent to judicial imposition of damages, civil penalties up to \$50,000 per day, and criminal penalties.

23. If any event, including administrative or judicial challenges by third parties unrelated to the Respondent, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Consent Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Economic circumstances shall not be considered circumstances beyond the control of Respondent, nor shall the failure of a contractor, subcontractor, material man or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the control of Respondent, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department orally within 24 hours or by the next working day and

shall, within seven calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. Such agreement shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this Paragraph in a timely manner shall constitute a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Consent Order.

24. No modification of the terms of this Consent Order shall be effective until reduced to writing and executed by the Respondent and the Department.

25. All documents submitted pursuant to the conditions of this Consent Order shall be accompanied by a cover letter stating the name and date of the document submitted, the Consent Order or Exhibit paragraph number involved, the Office of General Counsel (OGC) case number 01-1833 and the project name of the Facility involved. All submittals in response to this Consent Order (except financial) shall be submitted in quadruplicate, one each to:

Dept of Env Protection  
Waste Program Administrator,  
P.O. Box 25492600 Blair Stone Road MS 4560  
Fort Myers, Florida 33902-2549

Dept of Env Protection  
Office of General Counsel, MS 35  
3900 Commonwealth Blvd  
Tallahassee, FL 32399-3000

Dept of Env Protection  
Hazardous Waste Permitting  
Tallahassee Florida 32399-2400

USEPA  
Region 4 Waste Management  
61 Forsyth Street SW  
Atlanta, GA 30303-8960

26. The Department acknowledges that as between RCRA Facility operator and RPO, the RCRA Facility operator has primary responsibility for implementing the tasks required by

Exhibit V. The only affirmative actions required of the RPO under this Consent Order is to ultimately ensure that discharges at and from the Facility are remediated to meet water protection standards and minimum criteria, (paragraph 7); to provide access to the site (paragraph 14); and to notify the Department of any transfer or sale of real property (paragraph 28). Therefore, as between RCRA Facility operator and the RPO, the Department agrees to look to RCRA Facility operator first with respect to all closure and corrective actions required by this Consent Order. The Department agrees to initiate administrative or judicial enforcement proceedings against RCRA Facility operator prior to instituting enforcement proceedings against the RPO. However nothing herein shall prevent the Department from pursuing any rights it may have against the RPO with respect to environmental conditions, if after the institution of enforcement proceedings by the Department and the RCRA Facility operator does not fully comply with the terms of this Consent Order.

27. If all of the requirements of this Consent Order have not been fully satisfied, the RPO shall not sell or convey the Facility or real property without, at least 14 days prior to the sale or conveyance, (1) notifying the Department of such sale or conveyance, and (2) providing the name and address of the purchaser, or operator, or person(s) in control of the facility, and (3) providing a copy of this Consent Order with all attachments to the new owner or lessee. The sale or conveyance of the Facility, or the property upon which the Facility is located shall not relieve Respondent or current RPO of the obligations imposed in this Consent Order.

28. Entry of this Consent Order does not relieve Respondent of the need to comply with applicable federal, state or local laws, regulations or ordinances.

29. This Consent Order is "agency action" of the Department within the meaning of §120.69, F.S., and Rule 62-110.106(2), F.A.C., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance

with Chapter 120, F.S. Upon the timely filing of a petition this Consent Order will not be effective until further order of the Department.

FOR THE RESPONDENT:

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Arthur T. Hagan  
President

RPO:

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Bruce K. Ryan  
President

• DONE AND ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2001, Fort Myers, Florida.

STATE OF FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

\_\_\_\_\_  
Richard W. Cantrell  
Director of  
District Management

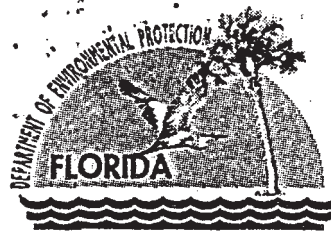
FILING AND ACKNOWLEDGEMENT  
FILED, on this date, pursuant to S 120.52  
Florida Statutes, with the designated Depart-  
ment Clerk, receipt of which is hereby acknow-  
ledged.

\_\_\_\_\_  
CLERK

\_\_\_\_\_  
DATE

RWC/CE/vo

## **Exhibit I**



# Department of Environmental Protection

Jeb Bush  
Governor

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

## HAZARDOUS WASTE INSPECTION REPORT

1. INSPECTION REPORT ☐ Complaint ☒ Routine ☐ Follow-up ☐ Permitting

FACILITY NAME: Howco Environmental Services EPA ID FL0 001 000 611

ADDRESS 2650-A Edison Avenue, Fort Myers, Florida 33715

COUNTY Lee PHONE 941 327-8467 DATE 12-6-00 TIME am  
TYPE OF FACILITY 12-11-00 9:00am

### GENERATOR

☐ Cond. Exempt S.Q.G.

☐ Small Quantity

☐ Generator

☐ Non-Handler

☐ Closed/Moved

### STORAGE

☐ Container

☐ Tank

☐ Waste Pile

☐ Surface Impoundment

☐ Lamps & Devices

### TREATMENT

☐ Tank

☐ Land Treatment

☐ Thermal

☐ Chem/Phys/Bio.

☐ Incinerator

☐ Surface Impoundment

### TRANSPORTER

☐ Transporter

☐ Transfer Station

### DISPOSAL

☐ Landfill

☐ Surface Impoundment

☐ Waste Pile

### USED OIL

☒ Used Oil Transporter

☒ Used Oil Transfer

☒ Filter Transporter/Transfer

## 2. Applicable Regulation:

<input checked="" type="checkbox"/> 40 CFR 261	<input checked="" type="checkbox"/> 40 CFR 262	<input type="checkbox"/> 40 CFR 263	<input type="checkbox"/> 40 CFR 264
<input type="checkbox"/> 40 CFR 265	<input checked="" type="checkbox"/> 40 CFR 268	<input checked="" type="checkbox"/> 40 CFR 279	<input type="checkbox"/> 62-737 F.A.C.
		<input checked="" type="checkbox"/> 62-710 F.A.C.	<input checked="" type="checkbox"/> 62-730 F.A.C.

## 3. Responsible Official: (Name and Title)

Arthur T. Hagen, owner

Candace and Bruce Ryan, property owners

## 4. Survey Participants & Principal Inspector:

12/6/00 - Candace Ryan - Ryan Petroleum, Howco driver, Karen Bayly - DEP

12/11/00 - Dave Thompson - Howco, Karen Bayly - DEP

5. Facility Latitude 26°38'01"N Longitude: 81°51'33"W SIC

6. Type of Ownership ☐ FEDERAL ☐ STATE ☐ COUNTY ☐ MUNICIPAL ☒ **PRIVATE**

7. Permit Number: n/a Date Issued:  Expiration Date:   
"More Protection, Less Process"

8. Pre-arranged Inspection: X Yes X No \_\_\_ Preinspection letter mailed \_\_\_ Yes X No

9. **Process Description or discrepancies from previous report:** see narrative below

A compliance evaluation inspection was conducted at this facility on 12-6-00 and 12-11-00. The following is a summary of my observations.

According to DEP's computer database, this facility is currently registered a used oil/used oil filter transporter and transfer facility and assigned EPA ID# FLO 001 000 611. A file review indicates this facility was inspected on May 24-25, 1999 by DEP hazardous waste staff and a representative from the USEPA. There were no violations cited against the facility at that time.

On 12-6-00, I contacted Dave Thompson to schedule a date/time to inspect the facility and review applicable documentation. We scheduled to conduct the inspection on 12-11-00 at 9:00am. I indicated that I would probably physically inspect the site prior to that time. Later that day, I visited the site and spoke with Candace Ryan who provided permission to inspect the storage tank system. Ms. Ryan explained that Howco maintains four 20,000-gallon aboveground storage tanks and leases a portion of the bulk storage area from Ryan Petroleum. The Howco tanks were labeled/numbered as follows: 1 used oil, 2 used oil, 3 used oil water, 4 used oil antifreeze. All the tanks had the red/white placard label "1993". The four tanks were situated within a secondary containment structure. Sandbags were placed at two ends of the structure which appears to prevent liquid from entering/releasing to Ryan's containment area. What appeared to be vegetative oily debris was observed in the containment structure beneath and around a large steel box. Beside the containment structure were two closed 55-gallon drums. One was labeled oily rags/sludge, and the other clean trash only. Adjacent to the drums was an emergency spill response unit. According to the driver unloading used oil at the time of my inspection, Dave Thompson is the crew leader for emergency spill response. Beside the unit was a large white trailer. The driver indicated it contains empty drums, drums containing used oil filters and drums containing spent absorbent.

On 12-11-00 I met with Dave Thompson and inspected the facility. It was discussed there are two drivers, Rick George and Glen Hendrix, who pick-up used oil, used antifreeze, used oil filters, spent absorbent, and petroleum contact water (pcw) from customers in collection trucks. The collection trucks have compartments and hold approximately 3,000 gallons of liquid. Each driver is assigned a storage tank (#1 or #2) to offload their used oil. Tanker trucks capable of holding approximately 6,800 gallons, backhaul the waste fluids to Howco's TSD facility in St. Petersburg where the used oil is recycled and sold as burner fuel, used antifreeze is sent off to an industrial wastewater plant or recycling facility in Virginia, spent absorbent is sent off to the Okeechobee Landfill or Kleen-Soil, and the pcw is treated or sent off for disposal.

The drivers off load used oil by connecting a hose to a valve header which is situated within the containment structure. Beneath the valve header is a metal box to collect drips, etc. from the hoses. Drivers open the lid when loading/off-loading fuel. At the time of this inspection the lid was on the box which prevents rainwater from collecting (see photo).

The (Howco) containment structure was inspected. It appeared that the walls were coated with a sealant, however the floor was not. Small cracks and dimples were observed along the interior of the wall. Sandbags are situated at each end of the containment. Mr. Thompson indicated that if rainwater collects in



the containment structure and there is a sheen it will be pumped in the pcw tank, and if there is no sheen it will be pumped out of the containment onto the ground

Each of the storage tanks is situated on gravel inside the containment structure (see photo). A curb surrounds the gravel and tank. It was not determined at the time of the inspection if there is an impervious surface beneath the gravel.

According to Mr. Thompson each storage tank is equipped with a sensor system, which sounds an alarm if the tank is too full (approximately 2-feet from the top of the tank). Mr. Thompson attempted to push a button on the control panel and sound the alarm, but it did not sound. It was questioned if the system and probes are routinely inspected and maintained. Mr. Thompson believes the system is inspected once a year and that the drivers know how to operate the control panel. Mr. Thompson also explained that before the drivers off load, they physically check the levels inside the tanks by dipping a yellow bar with tape into the tank (approximately 50-gallons equals 1-inch). Additionally, the tank system is designed so that if one overflows, it would flow into another tank via piping (see photo).

Adjacent to the containment structure were two closed 55-gallon drums. One was labeled clean trash only and the other was labeled oily rags/sludge which Mr. Thompson indicated is primarily oily rags and absorbent used by the drivers. The drum containing oily rags will be transported [on the trailer] to St. Petersburg for disposal.

The trailer was inspected next. According to Mr. Thompson the trailer holds approximately 98-100 55-gallon drums. The trailer contains empty drums for customers, and full drums of used oil filters and spent absorbent/oily rags. The trailer is changed out approximately every ten days. Mr. Thompson estimated approximately 12 drums of used oil filters/oily rags are picked up a day. Each driver maintains a log concerning how many drums he picked up, and records the corresponding manifest numbers. The log and a manifest will accompany the shipment to St. Petersburg. It was observed that the floor of the trailer is wood. At the time of this inspection, there were numerous empty drums and drums labeled as containing used oil filters.

Manifests from each driver from 12/6/00 – 12/8/00 were reviewed. It was noted that on one manifest, 75-gallons of used antifreeze was picked up, and at the bottom was a notation: monthly account – recycle A/F on site. A/F test approved 11/94. Mr. Thompson explained that this particular customer typically recycles its antifreeze on site, however on occasion Howco will pick up the used antifreeze, which was characterized on 11/94. Mr. Thompson further explained that Howco will not pick up a customer's used antifreeze if it has not been tested, and that the antifreeze is retested at Howco's discretion. Customers are required to sign profile sheets indicating hazardous materials have not been mixed or added.

The following back haul manifests were provided for review:

11-15-00	trailer load used oil filters	11-27-00	6800-gallons used oil (from tank 2)
11-7-00	drum trailer swap	11-18-00	6800-gallons used oil (from tank 2)
11-16-00	6800-gallons used oil (from tank 2)	11-21-00	6800-gallons used oil (from tank 2)
11-17-00	6800-gallons used oil (from tank 1)	11-22-00	6800-gallons used oil (from tank 2)
11-17-00	6800-gallons used oil (from tank 1)	11-30-00	6800-gallons used oil (from tank 2)

It was observed that on several manifests, the name and address of the providing facility and receiving facility were not clearly noted. Mr. Thompson explained that the letterhead at the top of each manifest is the receiving TSD facility – 3701 Central Avenue, St. Petersburg. According to DEP's computer

database, Howco's TSD facility is located at: 843 43<sup>rd</sup> St S., St. Petersburg. It was also noted that the 11-7-00 manifest does not clearly indicate what is being transported/disposed.

Driver training records were reviewed. According to Mr. Thompson, each driver is issued a driver's manual upon hiring and signs off as receiving one. A manual was not available during the inspection. According to documents provided during the inspection, Glen Hendrix received his manual on 8/17/98, and Rick George on 1-19-98. The sign off sheet indicates the manual contains regulations and actions of drivers as governed by rules of the DOT. Each driver also has received emergency response hazwopper training on 3/31/00, hazardous communication training on 3/31/00, and OSHA first responder training on 1/30/99.

Mr. Thompson provided copies of liability insurance papers indicating policy effective 8/00 – 8/01.

The facility's registration form and ID number are displayed in a small office space within a storage building on the western side of the property.

#### 10. List and Explain Noncompliance Items:

- a. 40 CFR 279.45(e)(2) – Secondary Containment for Existing Aboveground Tanks, existing aboveground tanks used to store used oil at transfer facilities must be equipped with a secondary containment system. The entire containment system, including walls and floors, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

The concrete floor of the containment structure did not appear coated with a sealant. Additionally, it was not determined if there is an impervious surface beneath the gravel of each of the storage tanks.

#### 11. Recommendations and Areas of Concern:

It should be noted that the Department's efforts in listing areas of concern to a facility is an attempt to help that facility to either avoid a future potential violation with the Department or other governmental agencies, or help the facility improve its overall operations while protecting the environment.

- a. Several small cracks and dimples were observed along the [Howco's] interior walls which should be addressed. It is recommended to routinely inspect the containment structure [and storage tanks] looking for cracks, holes, signs of erosion, etc.
- b. It is recommended the facility routinely inspect and maintain the sensor system for the storage tanks to ensure it is working properly in the event of an emergency.
- c. It was observed that on several back haul manifests, the name and address of the providing and receiving facilities were not clearly noted. Please note that according to 40 CFR 279.46, used oil transporters must keep a record of each shipment of used oil that is delivered to another transporter, or to a used oil burner, processor/re-refiner, or disposal facility. Records of each delivery must include:
  - name/address of receiving facility or transporter
  - EPA identification number of receiving facility or transporter
  - quantity of used oil delivered
  - date of delivery

the containment structure and there is a sheen it will be pumped in the pcw tank, and if there is no sheen it will be pumped out of the containment onto the ground

Each of the storage tanks is situated on gravel inside the containment structure (see photo). A curb surrounds the gravel and tank. It was not determined at the time of the inspection if there is an impervious surface beneath the gravel.

According to Mr. Thompson each storage tank is equipped with a sensor system, which sounds an alarm if the tank is too full (approximately 2-feet from the top of the tank). Mr. Thompson attempted to push a button on the control panel and sound the alarm, but it did not sound. It was questioned if the system and probes are routinely inspected and maintained. Mr. Thompson believes the system is inspected once a year and that the drivers know how to operate the control panel. Mr. Thompson also explained that before the drivers off load, they physically check the levels inside the tanks by dipping a yellow bar with tape into the tank (approximately 50-gallons equals 1-inch). Additionally, the tank system is designed so that if one overflows, it would flow into another tank via piping (see photo).

Adjacent to the containment structure were two closed 55-gallon drums. One was labeled clean trash only and the other was labeled oily rags/sludge which Mr. Thompson indicated is primarily oily rags and absorbent used by the drivers. The drum containing oily rags will be transported [on the trailer] to St. Petersburg for disposal.

The trailer was inspected next. According to Mr. Thompson the trailer holds approximately 98-100 55-gallon drums. The trailer contains empty drums for customers, and full drums of used oil filters and spent absorbent/oily rags. The trailer is changed out approximately every ten days. Mr. Thompson estimated approximately 12 drums of used oil filters/oily rags are picked up a day. Each driver maintains a log concerning how many drums he picked up, and records the corresponding manifest numbers. The log and a manifest will accompany the shipment to St. Petersburg. It was observed that the floor of the trailer is wood. At the time of this inspection, there were numerous empty drums and drums labeled as containing used oil filters.

Manifests from each driver from 12/6/00 – 12/8/00 were reviewed. It was noted that on one manifest, 75-gallons of used antifreeze was picked up, and at the bottom was a notation: monthly account – recycle A/F on site. A/F test approved 11/94. Mr. Thompson explained that this particular customer typically recycles its antifreeze on site, however on occasion Howco will pick up the used antifreeze, which was characterized on 11/94. Mr. Thompson further explained that Howco will not pick up a customer's used antifreeze if it has not been tested, and that the antifreeze is retested at Howco's discretion. Customers are required to sign profile sheets indicating hazardous materials have not been mixed or added.

The following back haul manifests were provided for review:

11-15-00	trailer load used oil filters	11-27-00	6800-gallons used oil (from tank 2)
11-7-00	drum trailer swap	11-18-00	6800-gallons used oil (from tank 2)
11-16-00	6800-gallons used oil (from tank 2)	11-21-00	6800-gallons used oil (from tank 2)
11-17-00	6800-gallons used oil (from tank 1)	11-22-00	6800-gallons used oil (from tank 2)
11-17-00	6800-gallons used oil (from tank 1)	11-30-00	6800-gallons used oil (from tank 2)

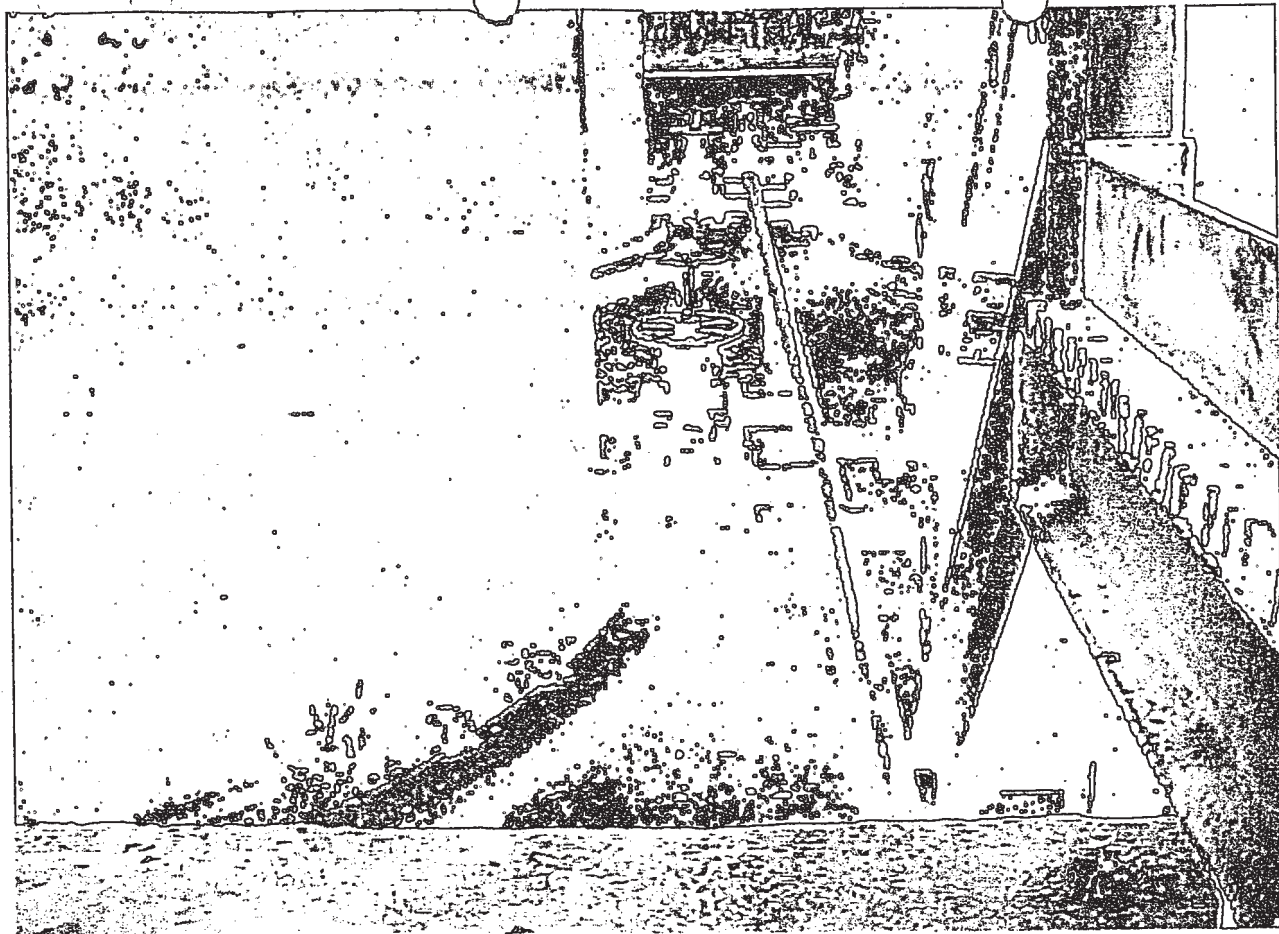
It was observed that on several manifests, the name and address of the providing facility and receiving facility were not clearly noted. Mr. Thompson explained that the letterhead at the top of each manifest is the receiving TSD facility – 3701 Central Avenue, St. Petersburg. According to DEP's computer

- signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.

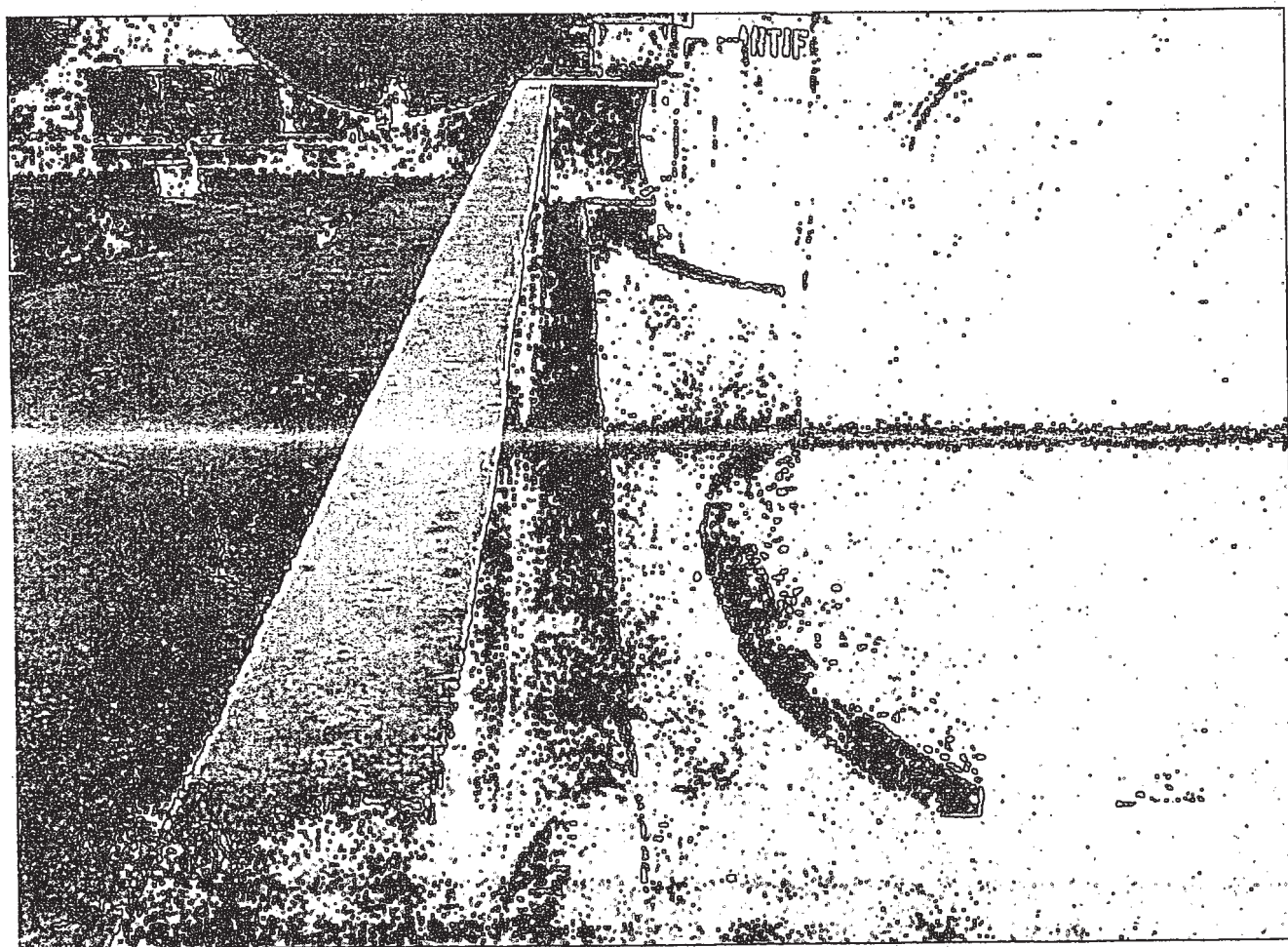
Report prepared by: Karen Bayly  
Environmental Specialist  
December 13, 2000

Karen Bayly





12-11-00  
Howco  
2650 Edison  
Amjus



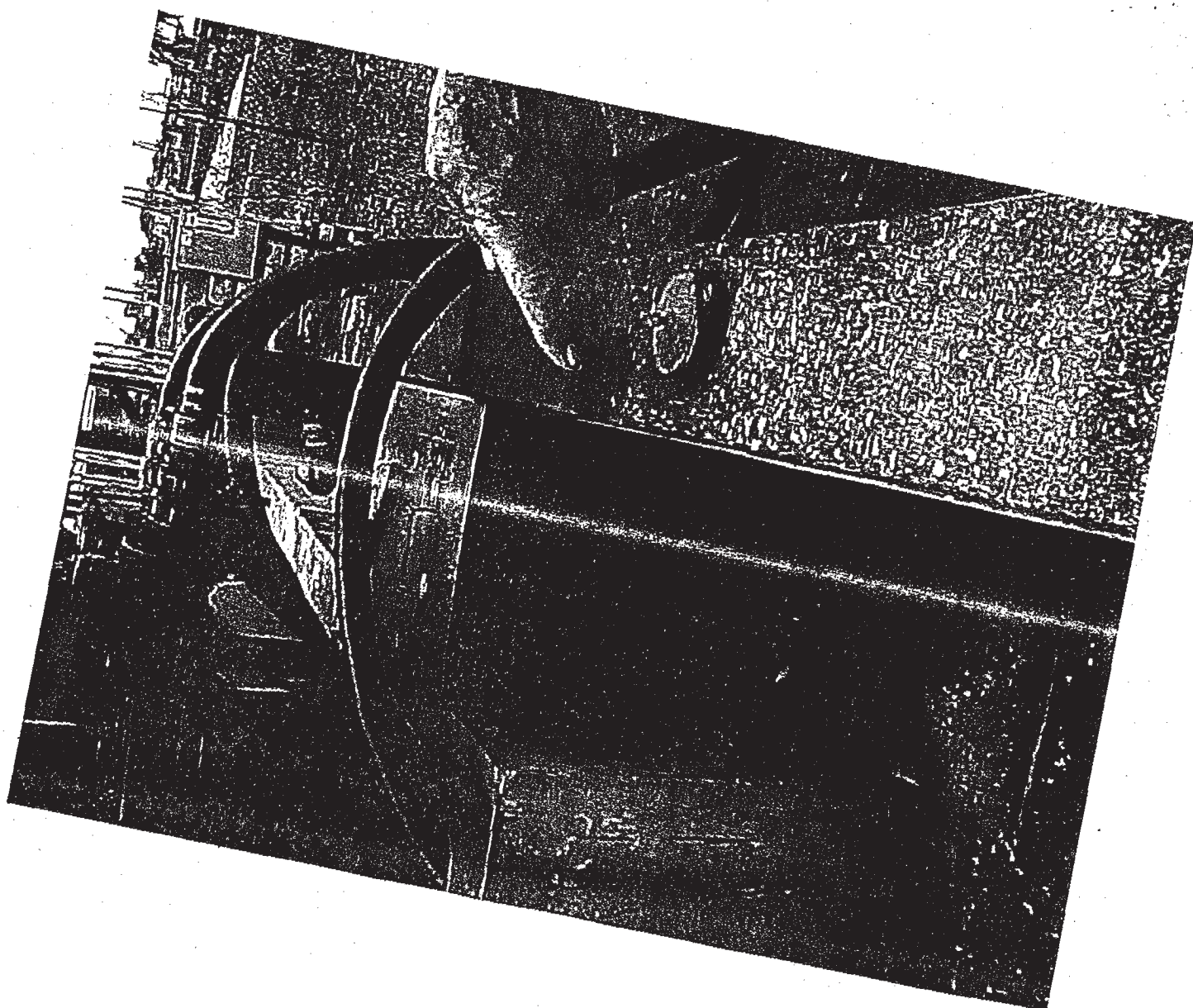


12-11-00  
Howco  
2650 Edison Ave  
Fort Myers

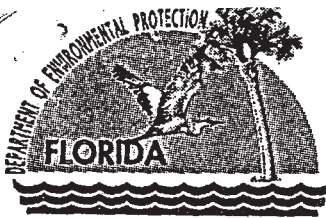




12-11-60  
Howco  
2650 Edison  
Hmyew







Jeb Bush  
Governor

# Department of Environmental Protection

FILE

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

September 27, 2001

David Thompson  
HOWCO Environmental Services  
3701 Central Avenue  
St. Petersburg, Florida 33713

RE: Lee County – HW  
HOWCO  
2650 Edison Avenue site  
FL0001000611  
Caloosahatchee to Lee Coast EMA

Dear Mr. Thompson:

On September 26, 2001, Karen Bayly of our office stopped by the above-referenced site. Please find enclosed pictures of what she observed. It appears that several of the nineteen 55-gallon drums of hazardous waste, on site, may be leaking. It is requested that the drums be evaluated immediately and that all leaking drums be placed into overpacks.

In addition, please provide our office with the original weekly inspection sheets for these nineteen hazardous waste drums. If you have any questions about this letter, feel free to call Charles Emery III or Karen Bayly at (941) 332-6975. We are looking forward to your cooperation in this matter.

Sincerely,

Philip A. Barbaccia  
Environmental Administrator

Enclosures  
PAB/CE/se

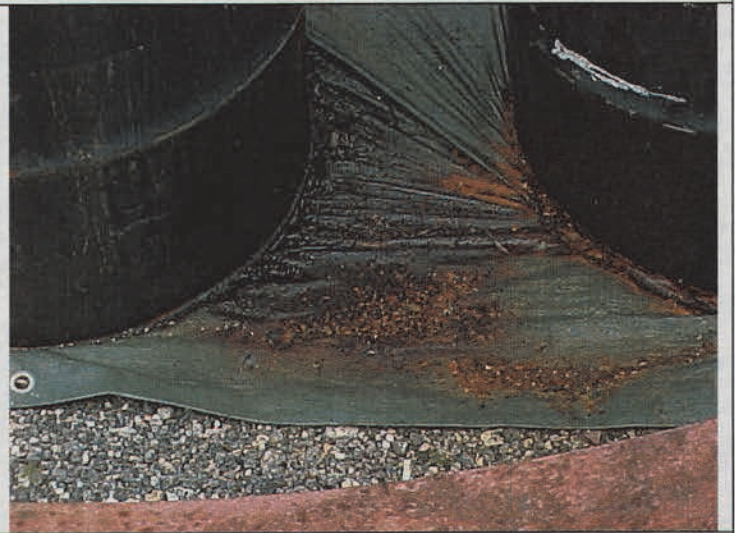
cc: Mike Redig, DEP (w/enclosures)  
Harold Vielhauer, OGC DEP (w/enclosures)  
Laurel Lockett (w/enclosures)  
Tim Hagan (w/enclosures)

"More Protection, Less Process"

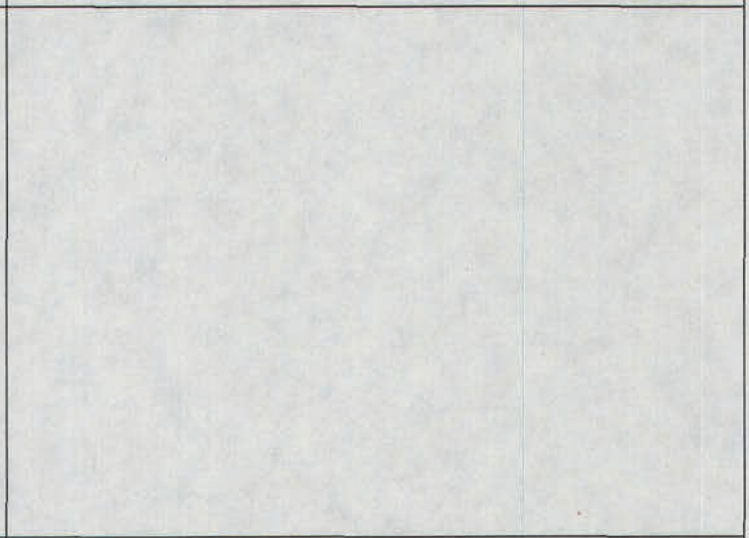
Printed on recycled paper.



Howco  
2650 Edison Ave., Fort Myers, FL  
9-26-01









**Exhibit III**



# Department of Environmental Protection

Jeb Bush  
Governor

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

## HAZARDOUS WASTE INSPECTION REPORT

1. INSPECTION REPORT ☐ Complaint ☒ Routine ☐ Follow-up ☐ Permitting

FACILITY NAME: Howco Environmental Services EPA ID FL0 001 000 611

ADDRESS 2650-A Edison Avenue, Fort Myers, Florida 33715

COUNTY Lee PHONE 941 327-8467 DATE 9-28-01 TIME ~9:30AM

### TYPE OF FACILITY

#### GENERATOR

☐ Cond. Exempt S.Q.G.  
☐ Small Quantity  
☐ Generator  
☐ Non-Handler  
☐ Closed/Moved

#### STORAGE

☐ Container  
☐ Tank  
☐ Waste Pile  
☐ Surface Impoundment  
☐ Lamps & Devices

#### TREATMENT

☐ Tank  
☐ Land Treatment  
☐ Thermal  
☐ Chem/Phys/Bio.  
☐ Incinerator  
☐ Surface Impoundment

#### TRANSPORTER

☐ Transporter  
☐ Transfer Station

#### DISPOSAL

☐ Landfill  
☐ Surface Impoundment  
☐ Waste Pile

#### USED OIL

☒ Used Oil Transporter  
☒ Used Oil Transfer  
☒ Filter Transporter/Transfer

### 2. Applicable Regulation:

<input checked="" type="checkbox"/> 40 CFR 261	<input checked="" type="checkbox"/> 40 CFR 262	<input type="checkbox"/> 40 CFR 263	<input checked="" type="checkbox"/> 40 CFR 264
<input checked="" type="checkbox"/> 40 CFR 265	<input checked="" type="checkbox"/> 40 CFR 268	<input checked="" type="checkbox"/> 40 CFR 279	<input type="checkbox"/> 62-737 F.A.C.
		<input checked="" type="checkbox"/> 62-710 F.A.C.	<input checked="" type="checkbox"/> 62-730 F.A.C.

### 3. Responsible Official: (Name and Title)

Arthur T. Hagen, owner  
Candace and Bruce Ryan, property owners

### 4. Survey Participants & Principal Inspector:

Dave Thompson - HOWCO Sales and Marketing Manager  
Karen Bayly - FDEP  
Sherrill Culliver - FDEP

5. Facility Latitude 26°38'01"N Longitude: 81°51'33"W SIC

6. Type of Ownership ☐ FEDERAL ☐ STATE ☐ COUNTY ☐ MUNICIPAL ☒ **PRIVATE**

"More Protection, Less Process"

Printed on recycled paper.

7. Permit Number: n/a Date Issued: \_\_\_\_\_ Expiration Date: \_\_\_\_\_
8. Pre-arranged Inspection: X Yes \_\_\_\_\_ No \_\_\_\_\_ Preinspection letter mailed \_\_\_\_\_ Yes X No
9. Process Description or discrepancies from previous report: see narrative below

This inspection was pre-arranged via a telephone conversation between Dave Thompson and Charles Emery on 9-27-01. It was discussed that Dave Thompson would come to the DEP office to review photographs taken on 9-26-01 of the nineteen 55-gallon drums stored at the Howco site. It was also discussed that Mr. Thompson would bring the original weekly inspection logs concerning the drums.

On 9-28-01, Dave Thompson telephoned DEP at ~8:45am and requested DEP staff come over to the Howco site to evaluate the drums. Sherrill Culliver and I arrived on site at ~9:30am and met with Mr. Thompson. Mr. Thompson asked me to point out the drums DEP was concerned about. We inspected the first drum which was located on the far west side, second to the last drum, from the north. Around a portion of the base of the drum and visqueen was a dark colored material. We inspected the second drum which was located on the far east side, middle drum. Around a portion of the base of the drum and visqueen was a dark colored material. I provided Mr. Thompson a copy of the colored photographs of the drums taken on 9-26-01 which shows the visqueen and bases around all the drums were dry, except for the two drums in question. It was discussed that on 9-26-01, it was not raining. Since 9-26-01, there has been significant rain in the area. Mr. Thompson indicated he would arrange for those two particular drums to be over-packed that day. It was also discussed that Charles Emery was concerned that the lids on some of the drums seemed to be bulging. Mr. Thompson indicated that he is arranging for Perma-Fix to dispose of the drums, possibly next week depending on their schedule. Either himself or Perma-Fix will relabel the drums as hazardous waste. It was discussed that DEP would like to be present when the drums are picked up for disposal. Mr. Thompson will inform Perma-Fix to contact DEP when they arrive on-site.

Mr. Thompson provided the original weekly inspection logs concerning the drums. We went to the Howco office (behind the Farmer's Market) so that he could photocopy the logs. It was observed that the last inspection conducted was dated 8-10-01. Mr. Thompson indicated that he relabeled the drums non-regulated waste sometime after 8-10-01. Mr. Thompson provided me a copy of the inspection logs and a copy of a letter dated 6-14-01, from Howco, to Charles Emery of DEP, which was to be sent. This letter was not sent to DEP.

Report prepared by: Karen Bayly  
Environmental Specialist  
October 3, 2001

Reviewed by: Sherrill Culliver  
Environmental Manager  
October 3, 2001

Karen Bayly

Sherrill Culliver

## **Exhibit IV**





Jeb Bush  
Governor

# Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

## HAZARDOUS WASTE INSPECTION REPORT

1. INSPECTION REPORT ☐ Complaint ☒ Routine ☐ Follow-up ☐ Permitting

FACILITY NAME: Howco Environmental Services EPA ID FL0 001 000 611

ADDRESS 2650-A Edison Avenue, Fort Myers, Florida 33715

COUNTY Lee PHONE 941 327-8467 DATE 10-11-01 TIME ~9:30AM

TYPE OF FACILITY (727) 638-2132

### GENERATOR

### STORAGE

### TREATMENT

☐ Cond. Exempt S.Q.G.  
☐ Small Quantity  
☒ Generator  
☐ Non-Handler  
☐ Closed/Moved

☐ Container  
☐ Tank  
☐ Waste Pile  
☐ Surface Impoundment  
☐ Lamps & Devices

☐ Tank  
☐ Land Treatment  
☐ Thermal  
☐ Chem/Phys/Bio.  
☐ Incinerator  
☐ Surface Impoundment

### TRANSPORTER

### DISPOSAL

### USED OIL

☐ Transporter  
☐ Transfer Station

☐ Landfill  
☐ Surface Impoundment  
☐ Waste Pile

☒ Used Oil Transporter  
☒ Used Oil Transfer  
☒ Filter Transporter/Transfer

## 2. Applicable Regulation:

<input checked="" type="checkbox"/> 40 CFR 261	<input checked="" type="checkbox"/> 40 CFR 262	<input type="checkbox"/> 40 CFR 263	<input checked="" type="checkbox"/> 40 CFR 264
<input checked="" type="checkbox"/> 40 CFR 265	<input checked="" type="checkbox"/> 40 CFR 268	<input checked="" type="checkbox"/> 40 CFR 279	<input type="checkbox"/> 62-737 F.A.C.
		<input checked="" type="checkbox"/> 62-710 F.A.C.	<input checked="" type="checkbox"/> 62-730 F.A.C.

## 3. Responsible Official: (Name and Title)

Arthur T. Hagen, owner  
Candace and Bruce Ryan, property owners

## 4. Survey Participants & Principal Inspector:

Glen Hendrix, Howco driver Larry Hutchinson – Freehold Cartage (863) 533-4599 or (863)287-8359  
DEP: Charles Emery, Karen Bayly

5. Facility Latitude 26°38'01"N Longitude: 81°51'33"W SIC

6. Type of Ownership ☐ FEDERAL ☐ STATE ☐ COUNTY ☐ MUNICIPAL ☒ **PRIVATE**

7. Permit Number: n/a Date Issued:  Expiration Date:   
"More Protection, Less Process"

8. Pre-arranged Inspection: X Yes ☐ No ☐ Preinspection letter mailed ☐ Yes X No

9. **Process Description or discrepancies from previous report:** see narrative below

An inspection was conducted to observe the disposal of 19 drums of hazardous waste. According to Larry Hutchinson, the drums will be transported to the Freehold Cartage transfer facility in Bartow, and then to the Perma-Fix facility in Gainesville, FL. Upon arriving at the facility, three drums had already been loaded onto the Freehold Cartage truck.

It was observed that two drums situated towards the center of the group of drums appeared to be/were leaking. Several small weep holes were evident on one of the drums (see photos 2,3). A distinct hole was observed on another drum, just above the second-middle rib (see photos 4-9,30). The contents of both drums were transferred into two new drums (see photos 10-22). The contents of the drums primarily consisted of rags, liquid and sludge.

As Mr. Hutchinson would attempt to place a drum on the drum dolly, a small amount of liquid would leak out from the lid (see photo 23,25). Some spillage occurred on the lift platform of the Freehold Cartage truck (see photos 26-27). Upon opening most of the drums, it was discovered that most of the lids did not have gaskets, and that at least two drum lids were deteriorated around the sides (see photos 32,33). Additionally, at least two bungs were not tightly closed (see photo 49). The majority of the lids had to be replaced with new lids from Howco's emergency response trailer. Additionally, on at least one drum, the ring was not properly fitted/sealed tight (see photo 47). Also observed upon opening the drums, was that most of the drums were full (see photo 28,31,34,35). One drum was filled completely to the top (see photos 39-40). It appeared that one drum may have possibly leaked/spilled when originally filled, as evident by rust streaks down the sides (see photo 38). Mr. Hutchinson rejected two drums due to damage/dents on the drums (see photo 43).

The bottoms of the drums were inspected as they were transported on the drum dolly to the truck. The base/bottom of several drums were rusted (see photos 41,42,46,48)

Hazardous waste labels and black/white diamond shaped labels were placed on each drum before loading onto the truck (see photo 1).

Rust stains and patches of discoloration were observed on the plastic tarp and ground beneath where the drums were situated (see photos 50-55).

In total, the contents of four drums (two with holes and two rejected due to dents) were transferred to four new drums. The bottoms of the four empty drums were wiped out with absorbent pads. The dirty absorbent pads, plastic tarp, buckets, gloves, etc. were placed in a drum, labeled hazardous waste (see photo 56-57). The empty drums were all labeled non-hazardous, for disposal only (see photo 58). The hazardous waste manifest reflected 17 55-gallon drums and 2 overpack drums were disposed.

Upon arriving back to the DEP office and reviewing the facility file, it was discovered that Howco's St. Petersburg EPA ID# had been used on the hazardous waste drum labels and manifest; and that 18 55-gallon drums and 2 overpack drums were disposed. This issue was discussed with Dave Thompson who issued a letter accounting for the discrepancies.

**10. List and Explain Noncompliance Items**

- a. 40 CFR 265.31 - Maintenance and Operation of Facility. The facility must maintain itself in a manner to operate to minimize the possibility of a fire, explosion, or an unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. On April 26, 2001, nineteen 55-gallon drums were generated as a result of emptying tank # 3 at this site. On May 30, 2001, Howco declared these drums hazardous waste and marked them as such. On September 26, 2001, DEP found two 55-gallon drums leaking. On September 28, 2001, the two drums were over packed by Howco and identified as hazardous waste. On October 11, 2001, two additional drums of hazardous waste were found leaking. While preparing the nineteen drums for shipment, it was observed that all the drums not over packed, leaked when moved. It was determined by opening these drums that the rubber gaskets normally placed in the side of ring top drums had not been done. Hence the drums were all prone to leaking.
- b. 40 CFR 262.20 [F.A.C. 62-730.160(4)] - Manifests. The facility upon shipping its hazardous waste from this site used an incorrect EPA ID # on the manifest and incorrectly identified the number of drums shipped. The EPA ID # used was FLD152764767. The EPA ID # that should have been used is FL0001000611. The facility indicated on its manifest that it shipped 19 drums when in fact it shipped 20 drums.

**Potential Additional Violations**

- a. 40 CFR 262.34(c)(1)(i) - Hazardous Waste Container Management. The facility failed to maintain hazardous waste containers in a good condition to prevent leakage.
- b. 40 CFR 262.34(a)(1)(i) - Weekly Inspections. Failure to perform weekly inspections of hazardous waste containers in storage looking for leaks and deterioration caused by corrosion. Evidence of at least four 55-gallon drums of hazardous waste leaked to the ground. Other stains in the storage area suggest that additional leakage may have occurred.
- c. F.A.C. 62-730.160(7) - Adequate Aisle Space. Facilities managing hazardous waste in containers must manage the containers in a manner to allow for the inspection of the containers.

Report prepared by: \_\_\_\_\_

Karen Bayly  
Environmental Specialist III  
October 19, 2001

Reviewed by: \_\_\_\_\_

Charles Emery III  
Environmental Manager  
October 24, 2001





Jeb Bush  
Governor

# Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

## HAZARDOUS WASTE INSPECTION REPORT

1. INSPECTION REPORT ☐ Complaint ☒ Routine ☐ Follow-up ☐ Permitting

FACILITY NAME: Howco Environmental Services EPA ID FL0 001 000 611

ADDRESS 2650-A Edison Avenue, Fort Myers, Florida 33715

COUNTY Lee PHONE 941 327-8467 DATE 9-28-01 TIME ~9:30AM

### TYPE OF FACILITY

#### GENERATOR

☐ Cond. Exempt S.Q.G.  
☐ Small Quantity  
☐ Generator  
☐ Non-Handler  
☐ Closed/Moved

#### STORAGE

☐ Container  
☐ Tank  
☐ Waste Pile  
☐ Surface Impoundment  
☐ Lamps & Devices

#### TREATMENT

☐ Tank  
☐ Land Treatment  
☐ Thermal  
☐ Chem/Phys/Bio.  
☐ Incinerator  
☐ Surface Impoundment

#### TRANSPORTER

☐ Transporter  
☐ Transfer Station

#### DISPOSAL

☐ Landfill  
☐ Surface Impoundment  
☐ Waste Pile

#### USED OIL

☒ Used Oil Transporter  
☒ Used Oil Transfer  
☒ Filter Transporter/Transfer

### 2. Applicable Regulation:

<input checked="" type="checkbox"/> 40 CFR 261	<input checked="" type="checkbox"/> 40 CFR 262	<input type="checkbox"/> 40 CFR 263	<input checked="" type="checkbox"/> 40 CFR 264
<input checked="" type="checkbox"/> 40 CFR 265	<input checked="" type="checkbox"/> 40 CFR 268	<input checked="" type="checkbox"/> 40 CFR 279	<input type="checkbox"/> 62-737 F.A.C.
		<input checked="" type="checkbox"/> 62-710 F.A.C.	<input checked="" type="checkbox"/> 62-730 F.A.C.

### 3. Responsible Official: (Name and Title)

Arthur T. Hagen, owner  
Candace and Bruce Ryan, property owners

### 4. Survey Participants & Principal Inspector:

Dave Thompson - HOWCO Sales and Marketing Manager  
Karen Bayly - FDEP  
Sherrill Culliver - FDEP

5. Facility Latitude 26°38'01"N Longitude: 81°51'33"W SIC

6. Type of Ownership ☐ FEDERAL ☐ STATE ☐ COUNTY ☐ MUNICIPAL ☒ **PRIVATE**

"More Protection, Less Process"

Printed on recycled paper.



7. Permit Number: n/a Date Issued: \_\_\_\_\_ Expiration Date: \_\_\_\_\_
8. Pre-arranged Inspection: X Yes      No      Preinspection letter mailed      Yes X No
9. **Process Description or discrepancies from previous report:** see narrative below

This inspection was pre-arranged via a telephone conversation between Dave Thompson and Charles Emery on 9-27-01. It was discussed that Dave Thompson would come to the DEP office to review photographs taken on 9-26-01 of the nineteen 55-gallon drums stored at the Howco site. It was also discussed that Mr. Thompson would bring the original weekly inspection logs concerning the drums.

On 9-28-01, Dave Thompson telephoned DEP at ~8:45am and requested DEP staff come over to the Howco site to evaluate the drums. Sherrill Culliver and I arrived on site at ~9:30am and met with Mr. Thompson. Mr. Thompson asked me to point out the drums DEP was concerned about. We inspected the first drum which was located on the far west side, second to the last drum, from the north. Around a portion of the base of the drum and visqueen was a dark colored material. We inspected the second drum which was located on the far east side, middle drum. Around a portion of the base of the drum and visqueen was a dark colored material. I provided Mr. Thompson a copy of the colored photographs of the drums taken on 9-26-01 which shows the visqueen and bases around all the drums were dry, except for the two drums in question. It was discussed that on 9-26-01, it was not raining. Since 9-26-01, there has been significant rain in the area. Mr. Thompson indicated he would arrange for those two particular drums to be over-packed that day. It was also discussed that Charles Emery was concerned that the lids on some of the drums seemed to be bulging. Mr. Thompson indicated that he is arranging for Perma-Fix to dispose of the drums, possibly next week depending on their schedule. Either himself or Perma-Fix will relabel the drums as hazardous waste. It was discussed that DEP would like to be present when the drums are picked up for disposal. Mr. Thompson will inform Perma-Fix to contact DEP when they arrive on-site.

Mr. Thompson provided the original weekly inspection logs concerning the drums. We went to the Howco office (behind the Farmer's Market) so that he could photocopy the logs. It was observed that the last inspection conducted was dated 8-10-01. Mr. Thompson indicated that he relabeled the drums non-regulated waste sometime after 8-10-01. Mr. Thompson provided me a copy of the inspection logs and a copy of a letter dated 6-14-01, from Howco, to Charles Emery of DEP, which was to be sent. This letter was not sent to DEP.

Report prepared by: Karen Bayly  
Environmental Specialist  
October 3, 2001

Reviewed by: Sherrill Culliver  
Environmental Manager  
October 3, 2001

Karen Bayly

Sherrill Culliver



**Exhibit IV**





Jeb Bush  
Governor

# Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

## HAZARDOUS WASTE INSPECTION REPORT

1. INSPECTION REPORT ☐ Complaint ☒ Routine ☐ Follow-up ☐ Permitting

FACILITY NAME: Howco Environmental Services EPA ID FL0 001 000 611

ADDRESS 2650-A Edison Avenue, Fort Myers, Florida 33715

COUNTY Lee PHONE 941 327-8467 DATE 10-11-01 TIME ~9:30AM

TYPE OF FACILITY (727) 638-2132

### GENERATOR

### STORAGE

### TREATMENT

☐ Cond. Exempt S.Q.G.  
☐ Small Quantity  
☒ Generator  
☐ Non-Handler  
☐ Closed/Moved

☐ Container  
☐ Tank  
☐ Waste Pile  
☐ Surface Impoundment  
☐ Lamps & Devices

☐ Tank  
☐ Land Treatment  
☐ Thermal  
☐ Chem/Phys/Bio.  
☐ Incinerator  
☐ Surface Impoundment

### TRANSPORTER

### DISPOSAL

### USED OIL

☐ Transporter  
☐ Transfer Station

☐ Landfill  
☐ Surface Impoundment  
☐ Waste Pile

☒ Used Oil Transporter  
☒ Used Oil Transfer  
☒ Filter Transporter/Transfer

## 2. Applicable Regulation:

<input checked="" type="checkbox"/> 40 CFR 261	<input checked="" type="checkbox"/> 40 CFR 262	<input type="checkbox"/> 40 CFR 263	<input checked="" type="checkbox"/> 40 CFR 264
<input checked="" type="checkbox"/> 40 CFR 265	<input checked="" type="checkbox"/> 40 CFR 268	<input checked="" type="checkbox"/> 40 CFR 279	<input type="checkbox"/> 62-737 F.A.C.
		<input checked="" type="checkbox"/> 62-710 F.A.C.	<input checked="" type="checkbox"/> 62-730 F.A.C.

## 3. Responsible Official: (Name and Title)

Arthur T. Hagen, owner  
Candace and Bruce Ryan, property owners

## 4. Survey Participants & Principal Inspector:

Glen Hendrix, Howco driver Larry Hutchinson – Freehold Cartage (863) 533-4599 or (863) 287-8359  
DEP: Charles Emery, Karen Bayly

5. Facility Latitude 26°38'01"N Longitude: 81°51'33"W SIC

6. Type of Ownership ☐ FEDERAL ☐ STATE ☐ COUNTY ☐ MUNICIPAL ☒ **PRIVATE**

7. Permit Number: n/a Date Issued:  Expiration Date:

"More Protection, Less Process"



8. Pre-arranged Inspection: X Yes      No      Preinspection letter mailed      Yes X No

9. **Process Description or discrepancies from previous report:** see narrative below

An inspection was conducted to observe the disposal of 19 drums of hazardous waste. According to Larry Hutchinson, the drums will be transported to the Freehold Cartage transfer facility in Bartow, and then to the Perma-Fix facility in Gainesville, FL. Upon arriving at the facility, three drums had already been loaded onto the Freehold Cartage truck.

It was observed that two drums situated towards the center of the group of drums appeared to be/were leaking. Several small weep holes were evident on one of the drums (see photos 2,3). A distinct hole was observed on another drum, just above the second-middle rib (see photos 4-9,30). The contents of both drums were transferred into two new drums (see photos 10-22). The contents of the drums primarily consisted of rags, liquid and sludge.

As Mr. Hutchinson would attempt to place a drum on the drum dolly, a small amount of liquid would leak out from the lid (see photo 23,25). Some spillage occurred on the lift platform of the Freehold Cartage truck (see photos 26-27). Upon opening most of the drums, it was discovered that most of the lids did not have gaskets, and that at least two drum lids were deteriorated around the sides (see photos 32,33). Additionally, at least two bungs were not tightly closed (see photo 49). The majority of the lids had to be replaced with new lids from Howco's emergency response trailer. Additionally, on at least one drum, the ring was not properly fitted/sealed tight (see photo 47). Also observed upon opening the drums, was that most of the drums were full (see photo 28,31,34,35). One drum was filled completely to the top (see photos 39-40). It appeared that one drum may have possibly leaked/spilled when originally filled, as evident by rust streaks down the sides (see photo 38). Mr. Hutchinson rejected two drums due to damage/dents on the drums (see photo 43).

The bottoms of the drums were inspected as they were transported on the drum dolly to the truck. The base/bottom of several drums were rusted (see photos 41,42,46,48)

Hazardous waste labels and black/white diamond shaped labels were placed on each drum before loading onto the truck (see photo 1).

Rust stains and patches of discoloration were observed on the plastic tarp and ground beneath where the drums were situated (see photos 50-55).

In total, the contents of four drums (two with holes and two rejected due to dents) were transferred to four new drums. The bottoms of the four empty drums were wiped out with absorbent pads. The dirty absorbent pads, plastic tarp, buckets, gloves, etc. were placed in a drum, labeled hazardous waste (see photo 56-57). The empty drums were all labeled non-hazardous, for disposal only (see photo 58). The hazardous waste manifest reflected 17 55-gallon drums and 2 overpack drums were disposed.

Upon arriving back to the DEP office and reviewing the facility file, it was discovered that Howco's St. Petersburg EPA ID# had been used on the hazardous waste drum labels and manifest; and that 18 55-gallon drums and 2 overpack drums were disposed. This issue was discussed with Dave Thompson who issued a letter accounting for the discrepancies.



**10. List and Explain Noncompliance Items**

- a. 40 CFR 265.31 - Maintenance and Operation of Facility. The facility must maintain itself in a manner to operate to minimize the possibility of a fire, explosion, or an unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. On April 26, 2001, nineteen 55-gallon drums were generated as a result of emptying tank # 3 at this site. On May 30, 2001, Howco declared these drums hazardous waste and marked them as such. On September 26, 2001, DEP found two 55-gallon drums leaking. On September 28, 2001, the two drums were over packed by Howco and identified as hazardous waste. On October 11, 2001, two additional drums of hazardous waste were found leaking. While preparing the nineteen drums for shipment, it was observed that all the drums not over packed, leaked when moved. It was determined by opening these drums that the rubber gaskets normally placed in the side of ring top drums had not been done. Hence the drums were all prone to leaking.
- b. 40 CFR 262.20 [F.A.C. 62-730.160(4)] - Manifests. The facility upon shipping its hazardous waste from this site used an incorrect EPA ID # on the manifest and incorrectly identified the number of drums shipped. The EPA ID # used was FLD152764767. The EPA ID # that should have been used is FL0001000611. The facility indicated on its manifest that it shipped 19 drums when in fact it shipped 20 drums.

**Potential Additional Violations**

- a. 40 CFR 262.34(c)(1)(i) - Hazardous Waste Container Management. The facility failed to maintain hazardous waste containers in a good condition to prevent leakage.
- b. 40 CFR 262.34(a)(1)(i) - Weekly Inspections. Failure to perform weekly inspections of hazardous waste containers in storage looking for leaks and deterioration caused by corrosion. Evidence of at least four 55-gallon drums of hazardous waste leaked to the ground. Other stains in the storage area suggest that additional leakage may have occurred.
- c. F.A.C. 62-730.160(7) - Adequate Aisle Space. Facilities managing hazardous waste in containers must manage the containers in a manner to allow for the inspection of the containers.

Report prepared by: \_\_\_\_\_

Karen Bayly  
Environmental Specialist III  
October 19, 2001

Reviewed by: \_\_\_\_\_

Charles Emery III  
Environmental Manager  
October 24, 2001



Howco  
October 11, 2001

**FEDERAL LAW PROHIBITS IMPROPER DISPOSAL**  
**IF FOUND, CONTACT THE NEAREST POLICE OR PUBLIC SAFETY**  
**AUTHORITY, OR THE U.S. ENVIRONMENTAL PROTECTION AGENCY**

ACCUMULATION START DATE 10/3/01 E.P.A. WASTE NO. D018/D039

D.O.T. PROPER SHIPPING NAME Hazardous Waste Liquids, N.O.S.  
(Benzene/Tetrachloroethylene)

U.N. OR H.A. NO. 9 NA3082 PGIII

GENERATOR NAME Howco Env. Services

ADDRESS 2050-A Edison Ave

CITY Ft Myers STATE FL

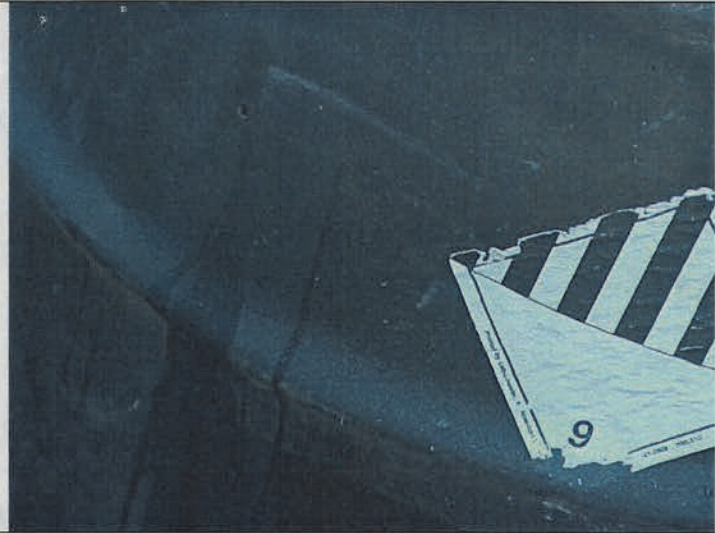
E.P.A. I.D. NO. FLD152764787 MANIFEST DOCUMENT NO. 11282

PROFILE NO. PF #38021 DRUM NO. 18

**HAZARDOUS WASTE / HANDLE WITH CARE**



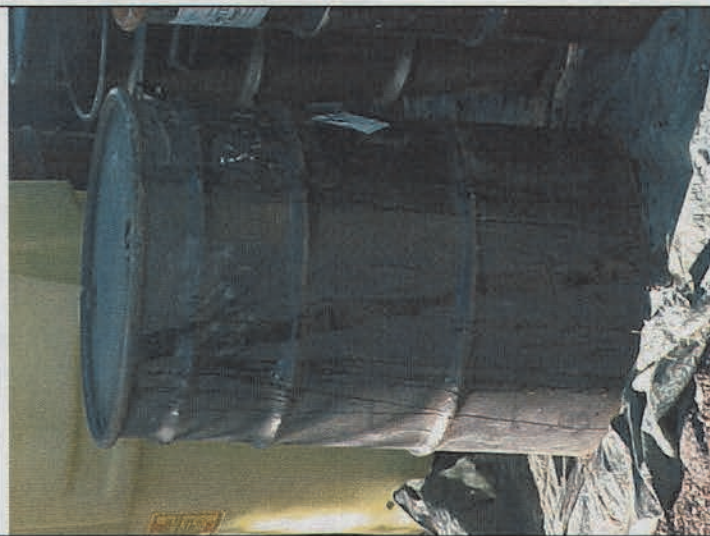




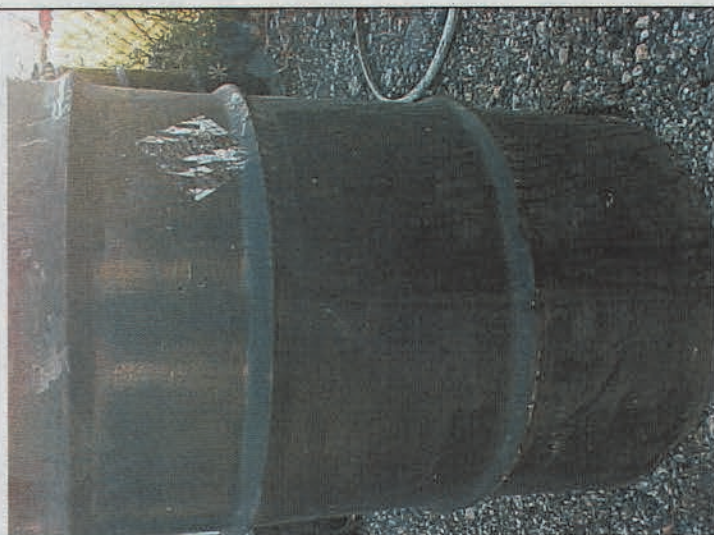








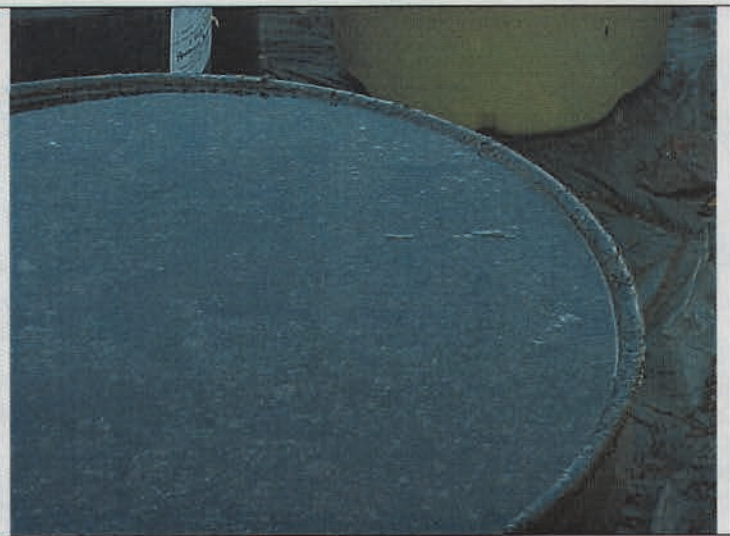
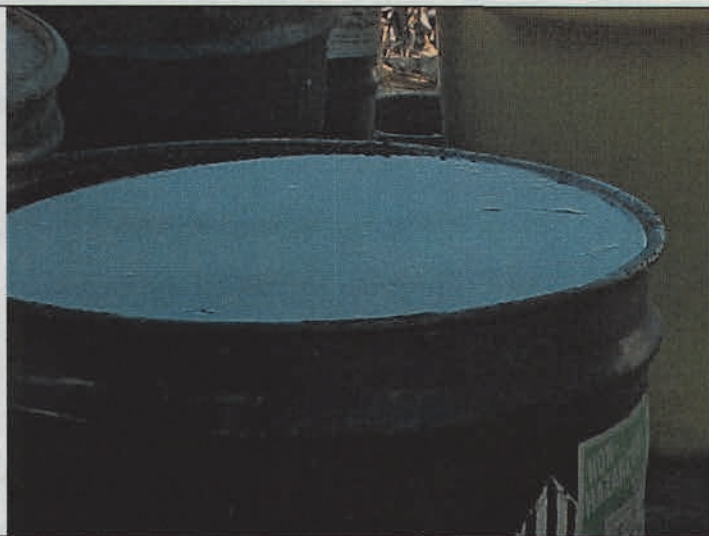




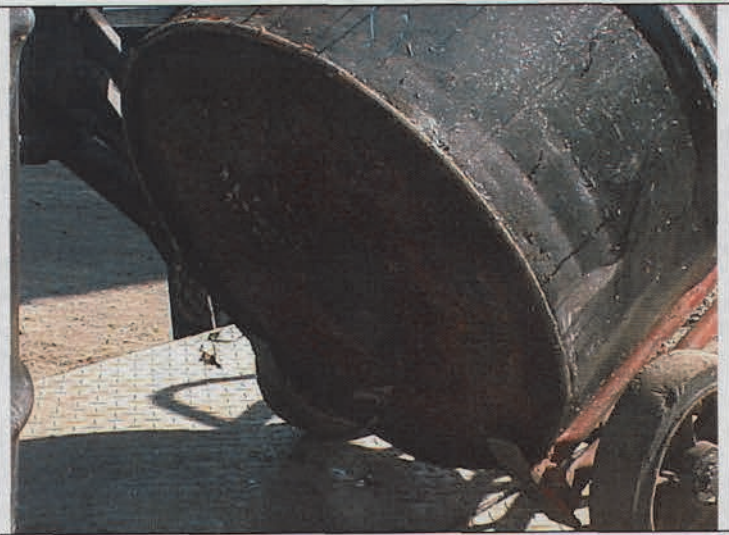








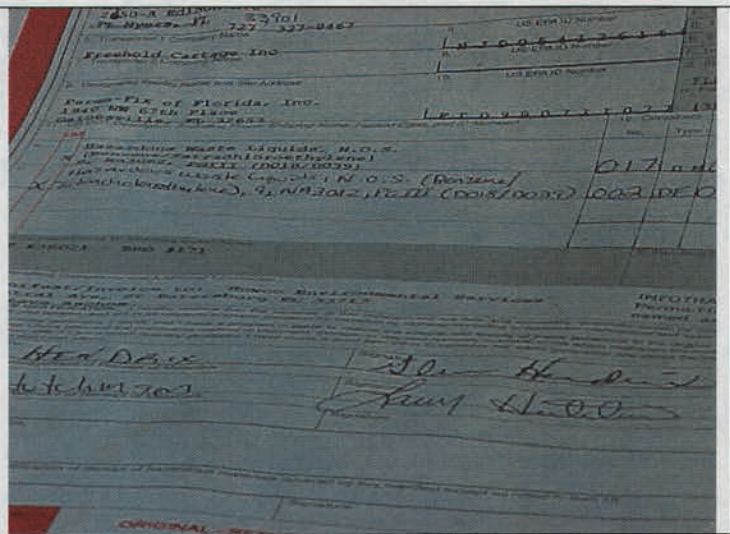
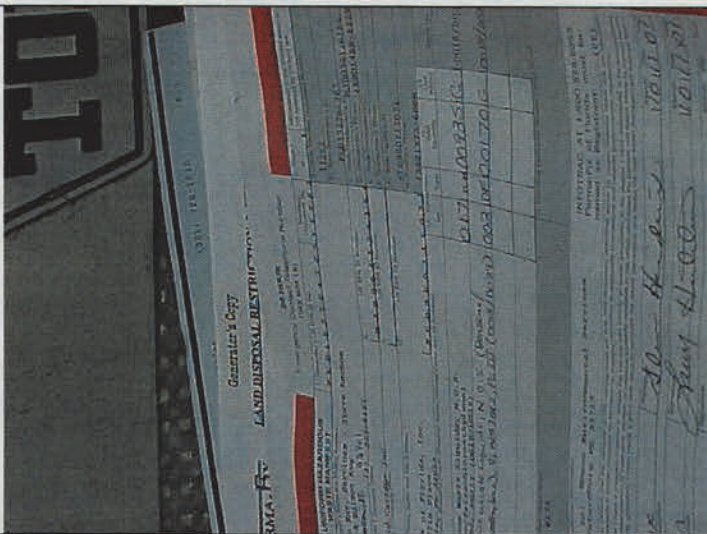
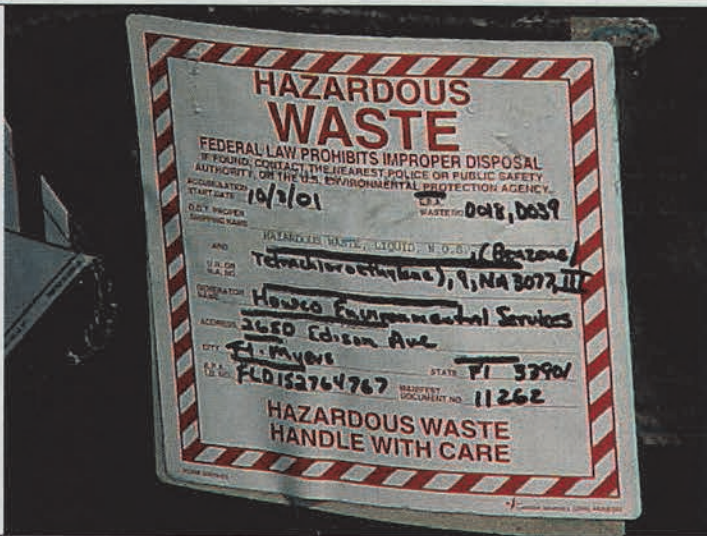














**Exhibit V**



use a  
address  
postmark on  
the post office  
not need  
a stamp



Jeb Bush  
Governor

# Department of Environmental Protection

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549  
October 25, 2001

David B. Struhs  
Secretary

CERTIFIED MAIL NO. 7001 0360 0000 8682 6102  
RETURN RECEIPT REQUESTED

Arthur T. Hagan  
Howco Environmental Services  
3701 Central Avenue  
St. Petersburg, FL 33713

RE: Lee County- HW  
Howco Used Oil Transfer Facility  
2650-A Edison Avenue, Fort Myers, Florida  
EPA ID No. FL0001000611  
Caloosahatchee to Lee Coast - EMA

Dear Mr. Hagan:

A hazardous waste compliance inspection was conducted at your facility on October 11, 2001. A copy of the inspection report is enclosed for your perusal. This inspection was conducted under the authority of Section 403.091, Florida Statutes and Chapter 403, Part IV, Florida Statutes, and is designed to ascertain the compliance status of your facility with 40 CFR 260-273 and 279, adopted in Florida Administrative Code (F.A.C.) Chapters 62-730 and 62-710.

During the inspection, possible violations of Department rules were noted as follows:

- a. 40 CFR 265.31 - Maintenance and Operation of Facility. The facility must maintain itself in a manner to operate so as to minimize the possibility of a fire, explosion, or an unplanned sudden or non-sudden release of hazardous waste or hazardous-waste constituents to air, soil, or surface water which could threaten human health or the environment. On April 26, 2001, nineteen 55-gallon drums were generated as a result of emptying tank No. 3 at this site. On May 30, 2001, Howco declared the drums hazardous waste and marked them as such. On September 26, 2001, DEP found two of the nineteen 55-gallons drums leaking. On September 28, 2001, the two drums were over packed by Howco and re-identified as hazardous waste. On October 11, 2001, two additional drums of hazardous waste were found leaking. While preparing the drums for shipment off site, it was observed that all drums which were not over packed, leaked when moved. It was determined by opening the drums that the rubber gaskets normally placed in the side of ring top lids had not been done; hence, all the drums were prone to leaking.
- b. 40 CFR 262.20 [62-730.160(4)] - Manifest. The facility upon shipping its hazardous waste from this site used an incorrect EPA ID number on the manifest and had incorrectly identified the number of drums shipped. The EPA ID number used was FLD152764767. The number that should have been used is FL0001000611. The facility indicated on its manifest that it shipped 19 drums when in fact they shipped 20 drums.

Continued...

"More Protection, Less Process"

Printed on recycled paper.



Mr. Aruthur T. Hagan  
Howco Used Oil  
EPA ID No. FL0001000611  
October 25, 2001  
Page 2

Potential Additional Violations:

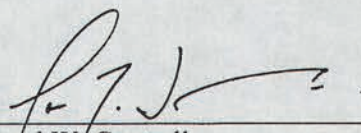
- a. 40 CFR 262.34(c)(1)(i) – Hazardous Waste Container Management. The facility failed to maintain hazardous waste containers in a good condition to prevent leakage.
- b. 40 CFR 262.34(a)(1)(i) – Weekly Inspections. Failure to perform weekly inspections of hazardous waste containers in storage looking for leaks and deterioration caused by corrosion. Evidence of at least four 55-gallon drums of hazardous waste leaked to the ground. Other stains in the storage area suggest that additional leakage may have occurred.
- c. 62-730.160(7) – Adequate Aisle Space. Facilities managing hazardous waste in containers must manage the containers in a manner so as to allow for the inspection of the containers.

**You are requested to meet with the Department at 2295 Victoria Avenue, Suite 364 W, Fort Myers, on November 7, 2001 at 10:00 a.m. to discuss this matter. Potential penalties will be discussed at that time, which may include monetary settlements.** Cleanup issues will also be discussed at that time. The Department is interested in reviewing any additional facts you may have. You may bring anyone with you to the meeting that you feel could help resolve this matter.

Any activities at your facility that may be contributing to violations of the above-described statutes or rules should cease immediately. Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(4), F.S. We look forward to your cooperation in completing the investigation and resolution of this matter.

If you have any questions, please feel free to call Charles Emery III or Karen Bayly at (941) 332-6975 or write to the letterhead address. Your cooperation in this matter is appreciated.

Sincerely,

  
\_\_\_\_\_  
Richard W. Cantrell  
Director of  
District Management

Enclosures  
RWC/CE/se

cc: Satish Kastury, DEP (w/enclosures)  
Tony Ettore, OGC DEP (w/enclosures)  
Candace and Bruce Ryan (w/enclosures)





# Department of Environmental Protection

Jeb Bush  
Governor

South District  
P.O. Box 2549  
Fort Myers, Florida 33902-2549

David B. Struhs  
Secretary

## HAZARDOUS WASTE INSPECTION REPORT

1. INSPECTION REPORT ☐ Complaint ☒ Routine ☐ Follow-up ☐ Permitting

FACILITY NAME: Howco Environmental Services EPA ID FL0 001 000 611

ADDRESS 2650-A Edison Avenue, Fort Myers, Florida 33715

COUNTY Lee PHONE 941 327-8467 DATE 10-11-01 TIME ~9:30AM

TYPE OF FACILITY (727) 638-2132

### GENERATOR

### STORAGE

### TREATMENT

<input type="checkbox"/> Cond. Exempt S.Q.G.	<input type="checkbox"/> Container	<input type="checkbox"/> Tank
<input type="checkbox"/> Small Quantity	<input type="checkbox"/> Tank	<input type="checkbox"/> Land Treatment
<input checked="" type="checkbox"/> Generator	<input type="checkbox"/> Waste Pile	<input type="checkbox"/> Thermal
<input type="checkbox"/> Non-Handler	<input type="checkbox"/> Surface Impoundment	<input type="checkbox"/> Chem/Phys/Bio.
<input type="checkbox"/> Closed/Moved	<input type="checkbox"/> Lamps & Devices	<input type="checkbox"/> Incinerator
		<input type="checkbox"/> Surface Impoundment

### TRANSPORTER

### DISPOSAL

### USED OIL

<input type="checkbox"/> Transporter	<input type="checkbox"/> Landfill	<input checked="" type="checkbox"/> Used Oil Transporter
<input type="checkbox"/> Transfer Station	<input type="checkbox"/> Surface Impoundment	<input checked="" type="checkbox"/> Used Oil Transfer
	<input type="checkbox"/> Waste Pile	<input checked="" type="checkbox"/> Filter Transporter/Transfer

## 2. Applicable Regulation:

<input checked="" type="checkbox"/> 40 CFR 261	<input checked="" type="checkbox"/> 40 CFR 262	<input type="checkbox"/> 40 CFR 263	<input checked="" type="checkbox"/> 40 CFR 264
<input checked="" type="checkbox"/> 40 CFR 265	<input checked="" type="checkbox"/> 40 CFR 268	<input checked="" type="checkbox"/> 40 CFR 279	<input type="checkbox"/> 62-737 F.A.C.
		<input checked="" type="checkbox"/> 62-710 F.A.C.	<input checked="" type="checkbox"/> 62-730 F.A.C.

## 3. Responsible Official: (Name and Title)

Arthur T. Hagen, owner

Candace and Bruce Ryan, property owners

## 4. Survey Participants & Principal Inspector:

Glen Hendrix, Howco driver Larry Hutchinson – Freehold Cartage (863) 533-4599 or (863)287-8359  
DEP: Charles Emery, Karen Bayly

5. Facility Latitude 26°38'01"N Longitude: 81°51'33"W SIC

6. Type of Ownership ☐ FEDERAL ☐ STATE ☐ COUNTY ☐ MUNICIPAL ☒ **PRIVATE**

7. Permit Number: n/a Date Issued:  Expiration Date:

"More Protection, Less Process"



8. Pre-arranged Inspection: X Yes      No      Preinspection letter mailed      Yes X No

9. **Process Description or discrepancies from previous report:** see narrative below

An inspection was conducted to observe the disposal of 19 drums of hazardous waste. According to Larry Hutchinson, the drums will be transported to the Freehold Cartage transfer facility in Bartow, and then to the Perma-Fix facility in Gainesville, FL. Upon arriving at the facility, three drums had already been loaded onto the Freehold Cartage truck.

It was observed that two drums situated towards the center of the group of drums appeared to be/were leaking. Several small weep holes were evident on one of the drums (see photos 2,3). A distinct hole was observed on another drum, just above the second-middle rib (see photos 4-9,30). The contents of both drums were transferred into two new drums (see photos 10-22). The contents of the drums primarily consisted of rags, liquid and sludge.

As Mr. Hutchinson would attempt to place a drum on the drum dolly, a small amount of liquid would leak out from the lid (see photo 23,25). Some spillage occurred on the lift platform of the Freehold Cartage truck (see photos 26-27). Upon opening most of the drums, it was discovered that most of the lids did not have gaskets, and that at least two drum lids were deteriorated around the sides (see photos 32,33). Additionally, at least two bungs were not tightly closed (see photo 49). The majority of the lids had to be replaced with new lids from Howco's emergency response trailer. Additionally, on at least one drum, the ring was not properly fitted/sealed tight (see photo 47). Also observed upon opening the drums, was that most of the drums were full (see photo 28,31,34,35). One drum was filled completely to the top (see photos 39-40). It appeared that one drum may have possibly leaked/spilled when originally filled, as evident by rust streaks down the sides (see photo 38). Mr. Hutchinson rejected two drums due to damage/dents on the drums (see photo 43).

The bottoms of the drums were inspected as they were transported on the drum dolly to the truck. The base/bottom of several drums were rusted (see photos 41,42,46,48)

Hazardous waste labels and black/white diamond shaped labels were placed on each drum before loading onto the truck (see photo 1).

Rust stains and patches of discoloration were observed on the plastic tarp and ground beneath where the drums were situated (see photos 50-55).

In total, the contents of four drums (two with holes and two rejected due to dents) were transferred to four new drums. The bottoms of the four empty drums were wiped out with absorbent pads. The dirty absorbent pads, plastic tarp, buckets, gloves, etc. were placed in a drum, labeled hazardous waste (see photo 56-57). The empty drums were all labeled non-hazardous, for disposal only (see photo 58). The hazardous waste manifest reflected 17 55-gallon drums and 2 overpack drums were disposed.

Upon arriving back to the DEP office and reviewing the facility file, it was discovered that Howco's St. Petersburg EPA ID# had been used on the hazardous waste drum labels and manifest; and that 18 55-gallon drums and 2 overpack drums were disposed. This issue was discussed with Dave Thompson who issued a letter accounting for the discrepancies.



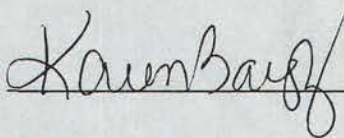
**10. List and Explain Noncompliance Items**

- a. 40 CFR 265.31 - Maintenance and Operation of Facility. The facility must maintain itself in a manner to operate to minimize the possibility of a fire, explosion, or an unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment. On April 26, 2001, nineteen 55-gallon drums were generated as a result of emptying tank # 3 at this site. On May 30, 2001, Howco declared these drums hazardous waste and marked them as such. On September 26, 2001, DEP found two 55-gallon drums leaking. On September 28, 2001, the two drums were over packed by Howco and identified as hazardous waste. On October 11, 2001, two additional drums of hazardous waste were found leaking. While preparing the nineteen drums for shipment, it was observed that all the drums not over packed, leaked when moved. It was determined by opening these drums that the rubber gaskets normally placed in the side of ring top drums had not been done. Hence the drums were all prone to leaking.
- b. 40 CFR 262.20 [F.A.C. 62-730.160(4)] - Manifests. The facility upon shipping its hazardous waste from this site used an incorrect EPA ID # on the manifest and incorrectly identified the number of drums shipped. The EPA ID # used was FLD152764767. The EPA ID # that should have been used is FL0001000611. The facility indicated on its manifest that it shipped 19 drums when in fact it shipped 20 drums.

**Potential Additional Violations**

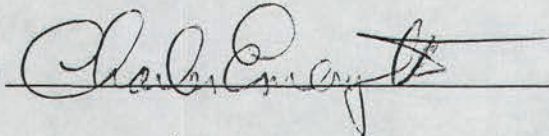
- a. 40 CFR 262.34(c)(1)(i) - Hazardous Waste Container Management. The facility failed to maintain hazardous waste containers in a good condition to prevent leakage.
- b. 40 CFR 262.34(a)(1)(i) - Weekly Inspections. Failure to perform weekly inspections of hazardous waste containers in storage looking for leaks and deterioration caused by corrosion. Evidence of at least four 55-gallon drums of hazardous waste leaked to the ground. Other stains in the storage area suggest that additional leakage may have occurred.
- c. F.A.C. 62-730.160(7) - Adequate Aisle Space. Facilities managing hazardous waste in containers must manage the containers in a manner to allow for the inspection of the containers.

Report prepared by:



Karen Bayly  
Environmental Specialist III  
October 19, 2001

Reviewed by:



Charles Emery III  
Environmental Manager  
October 24, 2001



Howco  
2650-A Edison Ave., Fort Myers, FL  
October 11, 2001

**FEDERAL LAW PROHIBITS IMPROPER DISPOSAL**  
**IF FOUND, CONTACT THE NEAREST POLICE OR PUBLIC SAFETY**  
**AUTHORITY, OR THE U.S. ENVIRONMENTAL PROTECTION AGENCY**

ACCUMULATION START DATE 10/8/01 EPA WASTE NO. D018/D039

U.S. PROPER SHIPPING NAME Hazardous Waste Liquids, N.O.S.  
(Benzene/Tetrachloroethylene)

U.N. OR H.A. NO. 9 NA3082 PGYI

GENERATOR NAME Howco Env. Services

ADDRESS 2050-A Edison Ave

CITY Ft. Myers STATE FL

EPA I.D. NO. FLD152784767 MANIFEST DOCUMENT NO. 11262

PROFILE NO. PF #38021 DRUM NO. 18

**HAZARDOUS WASTE / HANDLE WITH CARE**

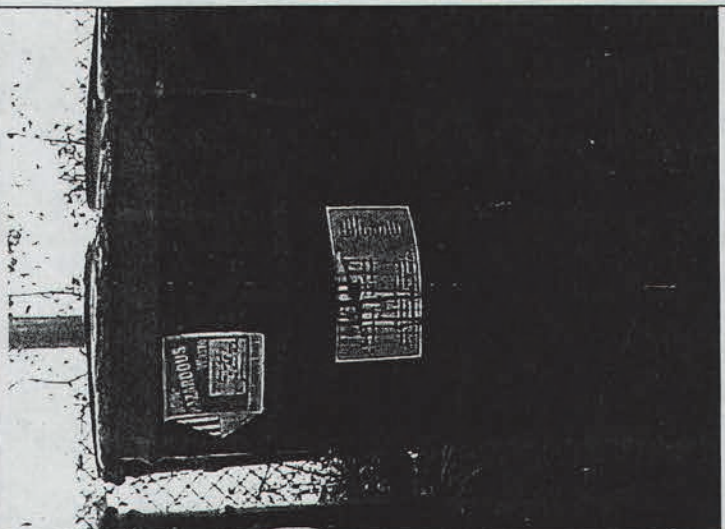


Photo 1

Photo 2



Photo 3

Photo 4

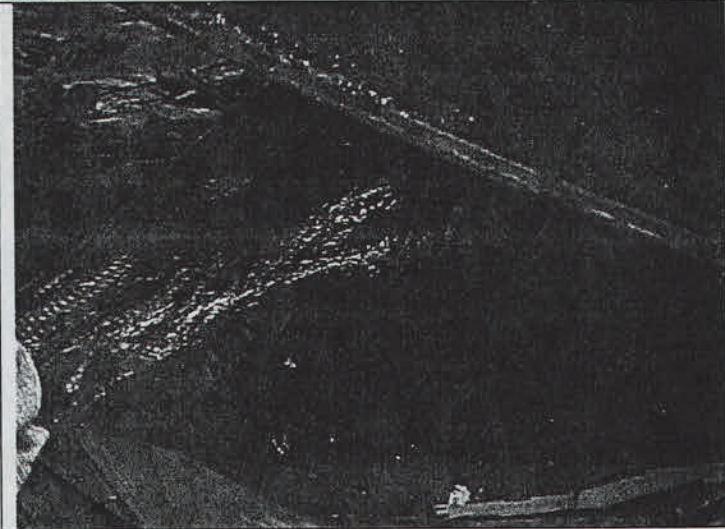


Photo 5

Photo 6



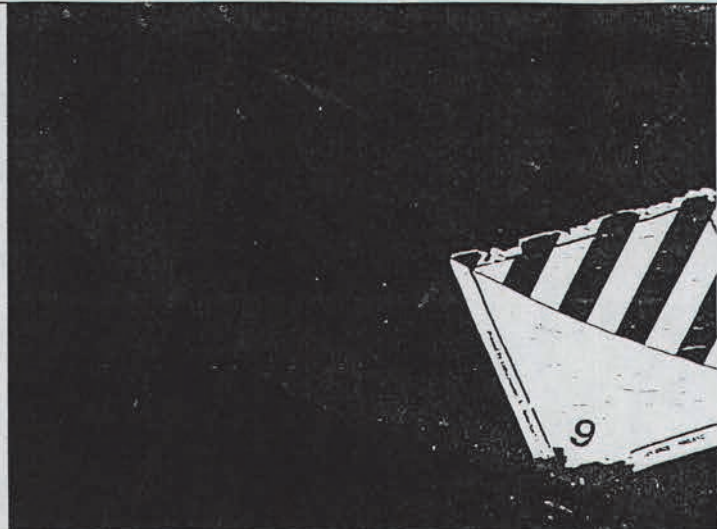


Photo 7



Photo 8

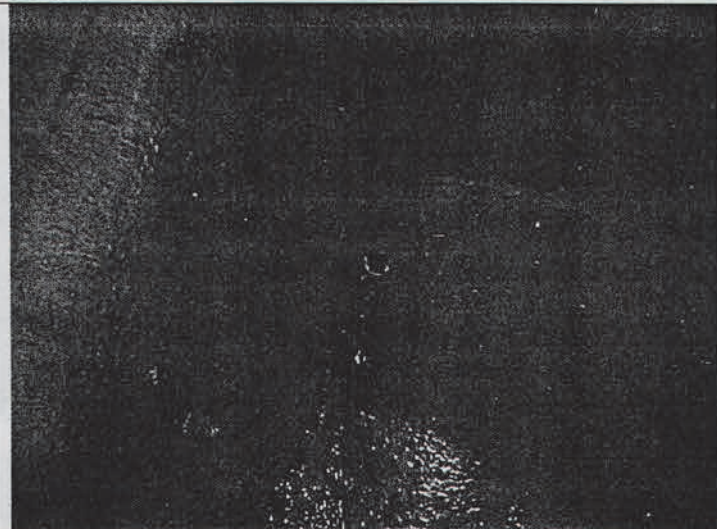


Photo 9

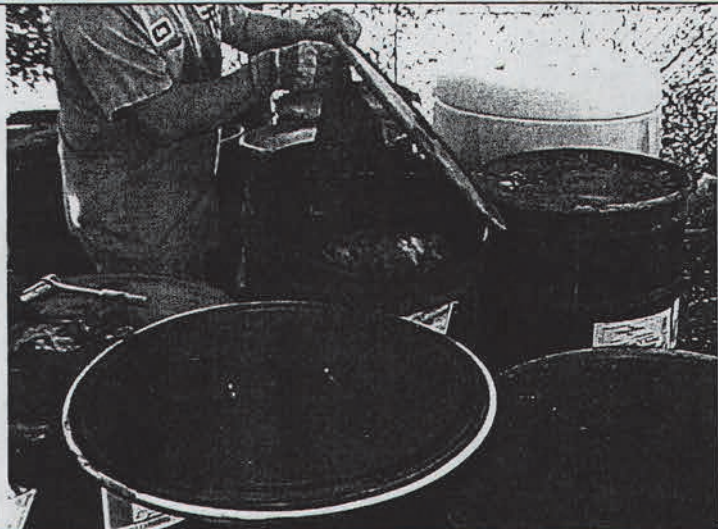


Photo 10



Photo 11



Photo 12





Photo 13



Photo 14



Photo 15

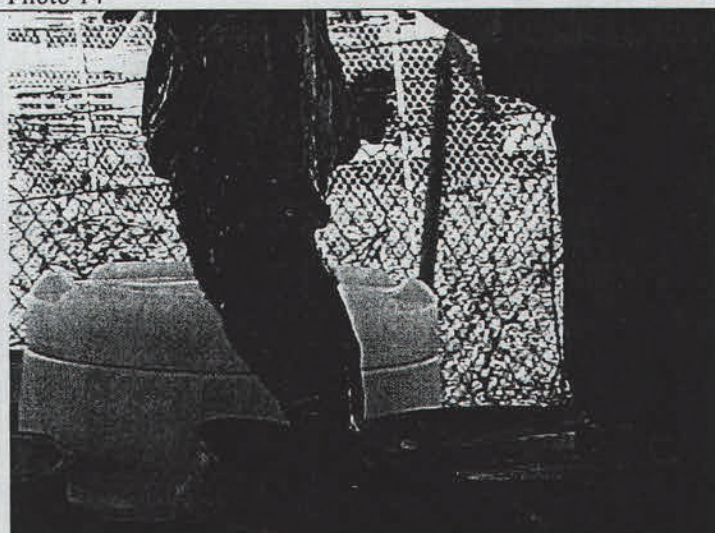


Photo 16

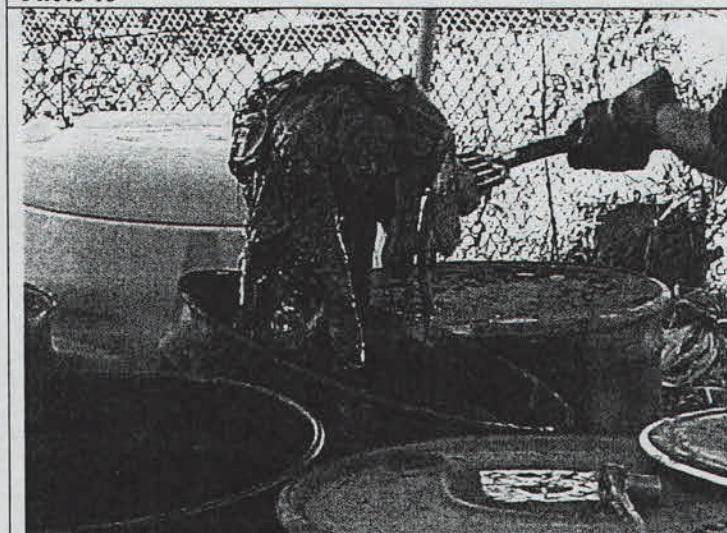


Photo 17



Photo 18





Photo 19



Photo 20



Photo 21



Photo 22

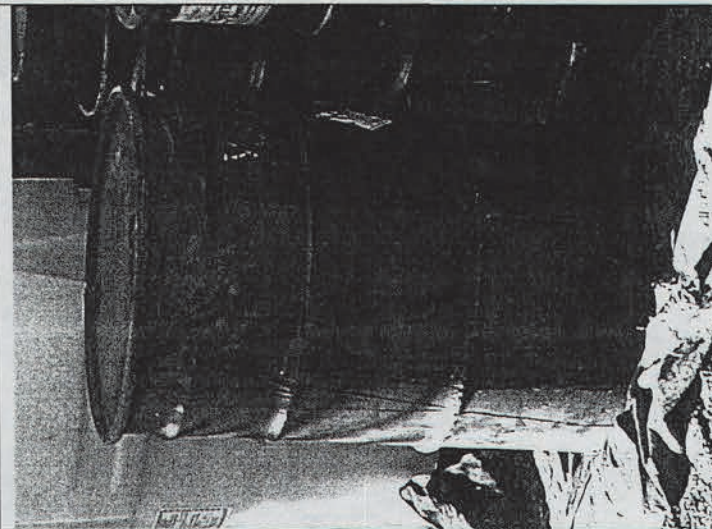


Photo 23



Photo 24



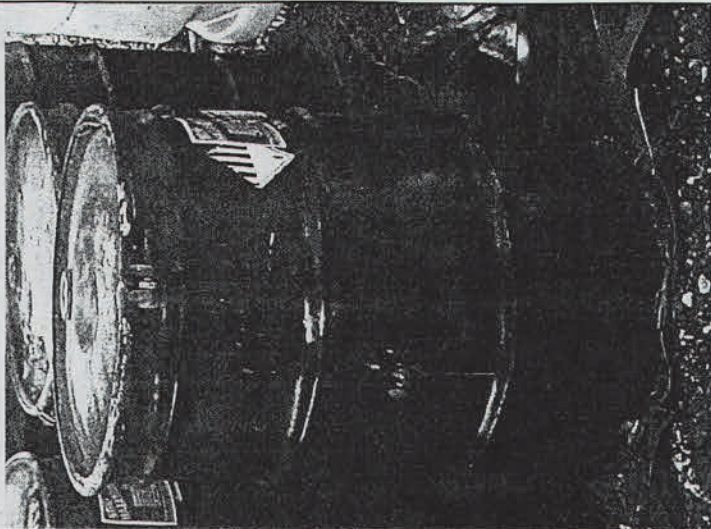


Photo 25

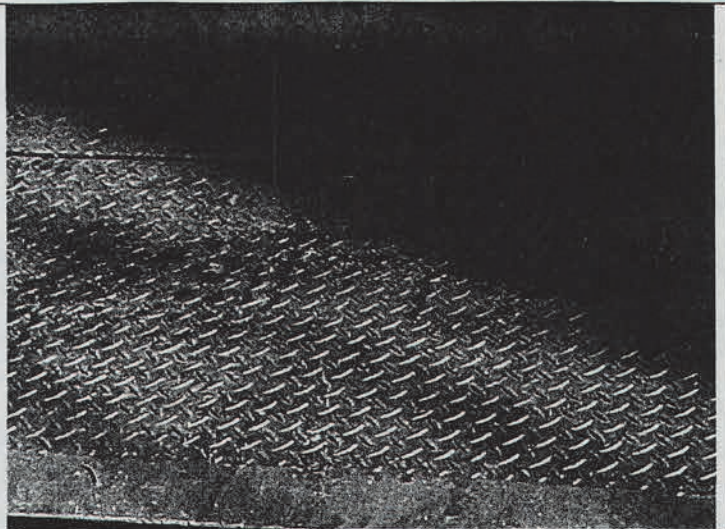


Photo 26

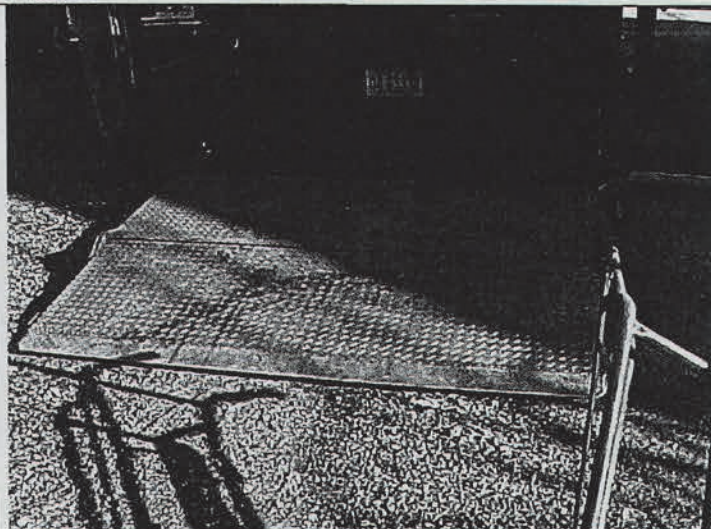


Photo 27

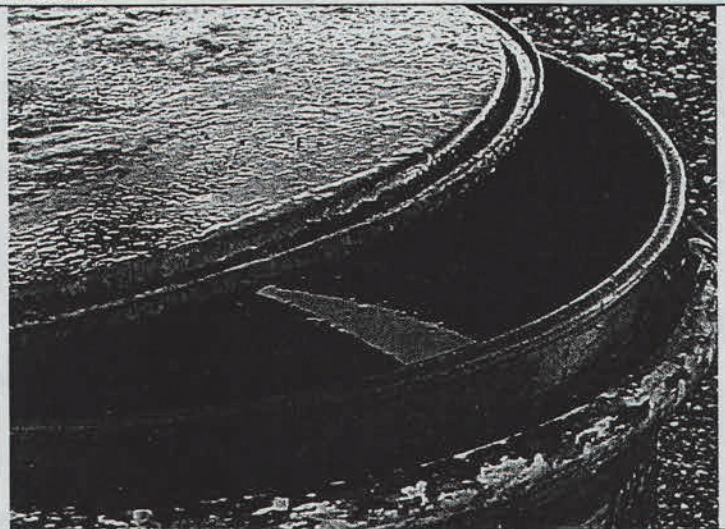


Photo 28



Photo 29

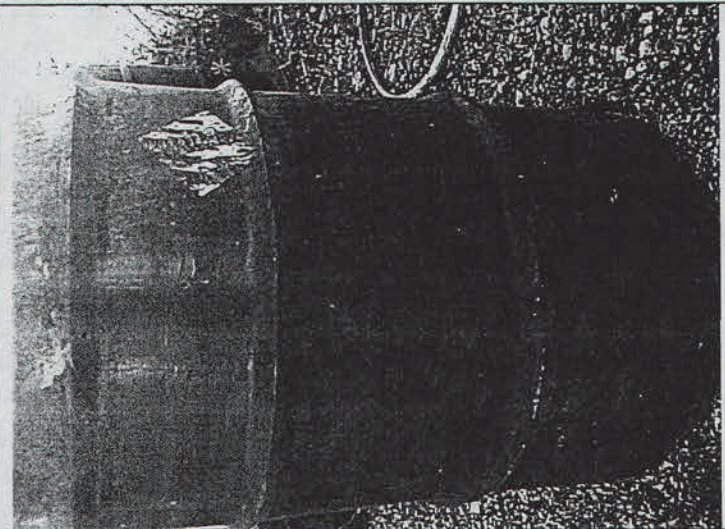


Photo 30



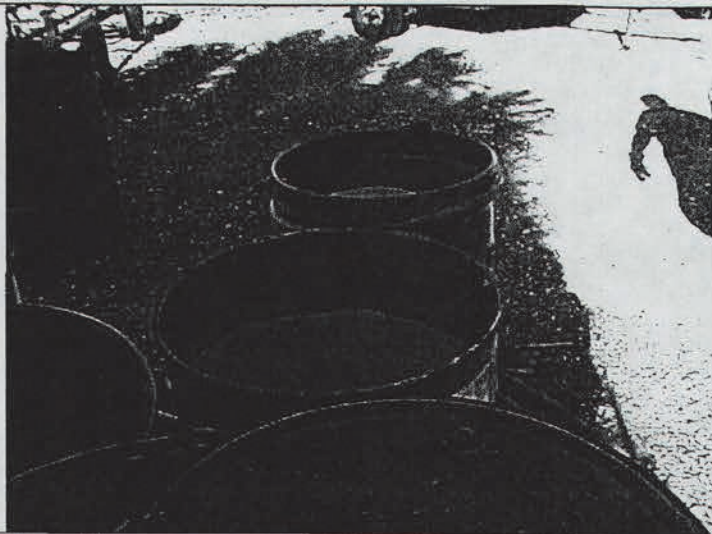


Photo 31



Photo 32



Photo 33



Photo 34



Photo 35



Photo 36



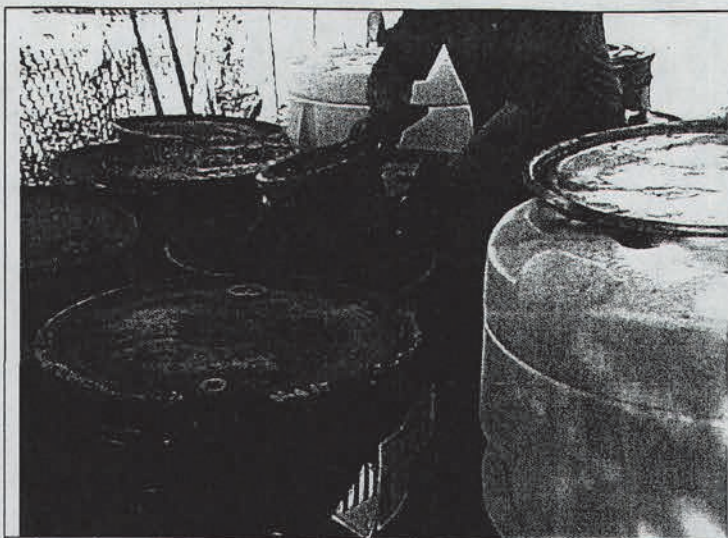


Photo 37

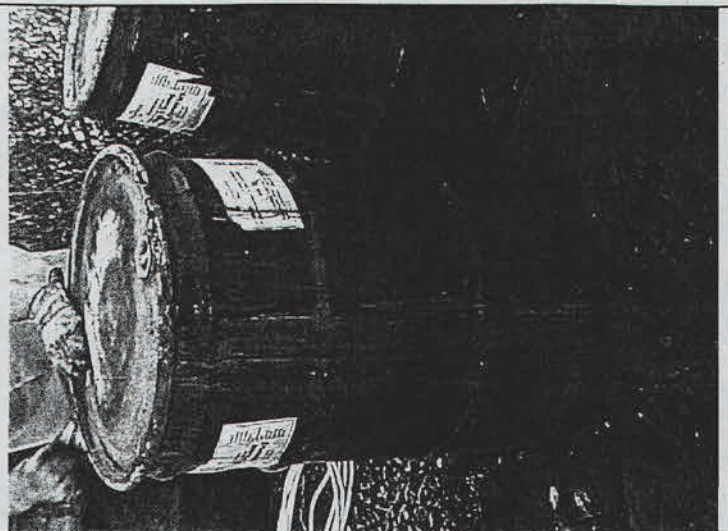


Photo 38

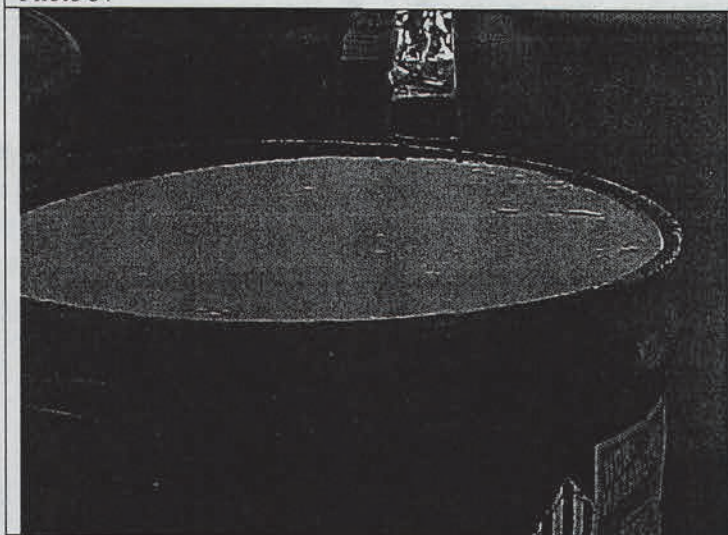


Photo 39



Photo 40

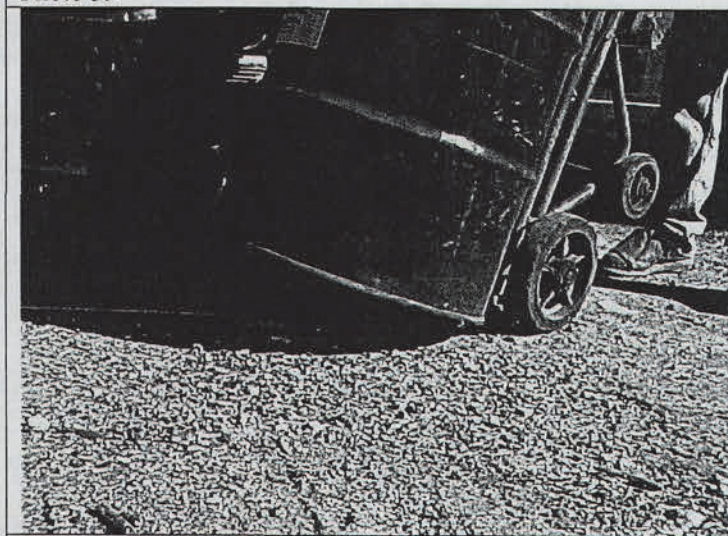


Photo 41



Photo 42





Photo 43

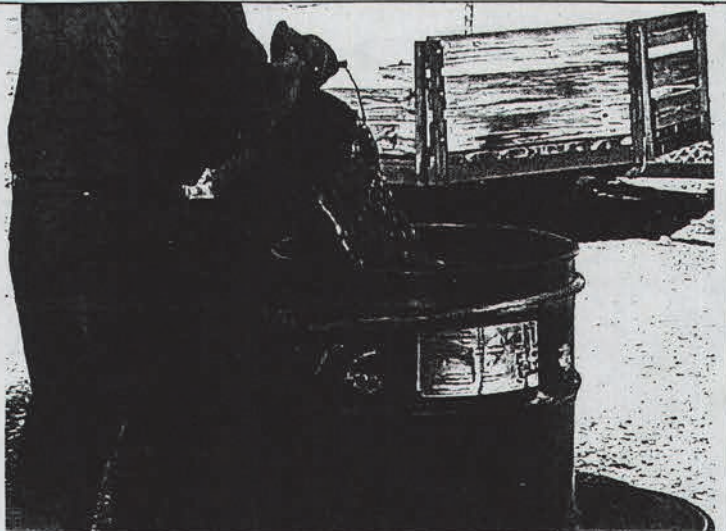


Photo 44



Photo 45

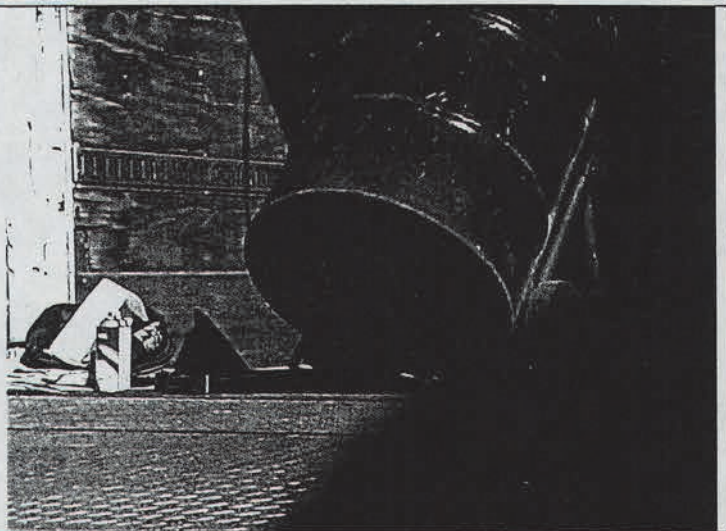


Photo 46

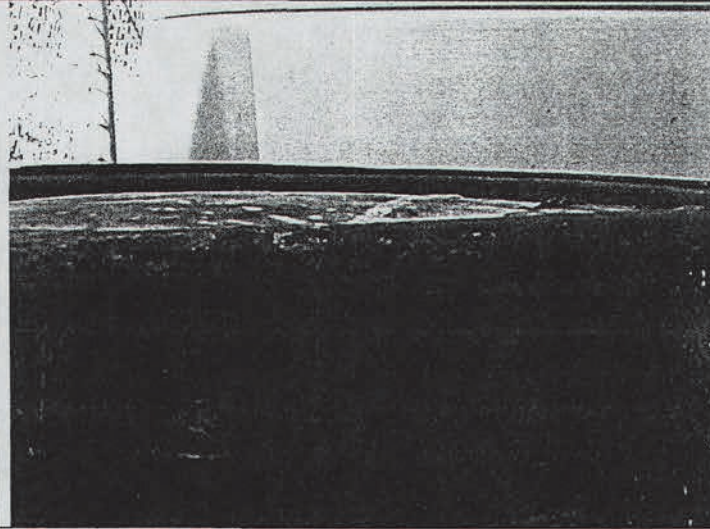


Photo 47

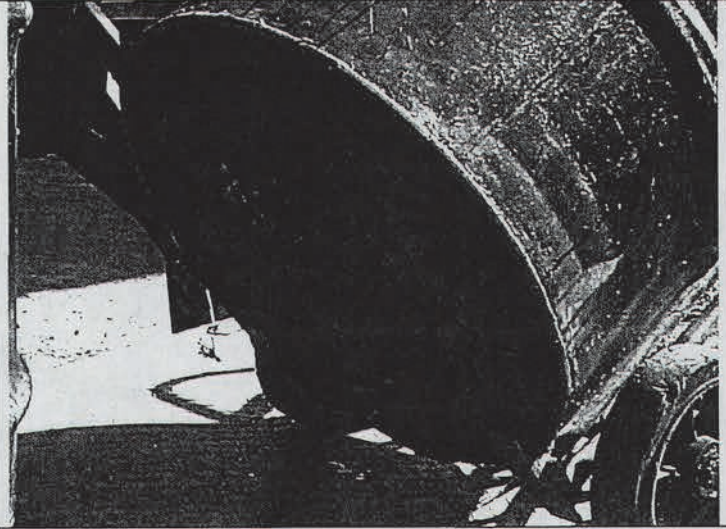


Photo 48





Photo 49



Photo 50

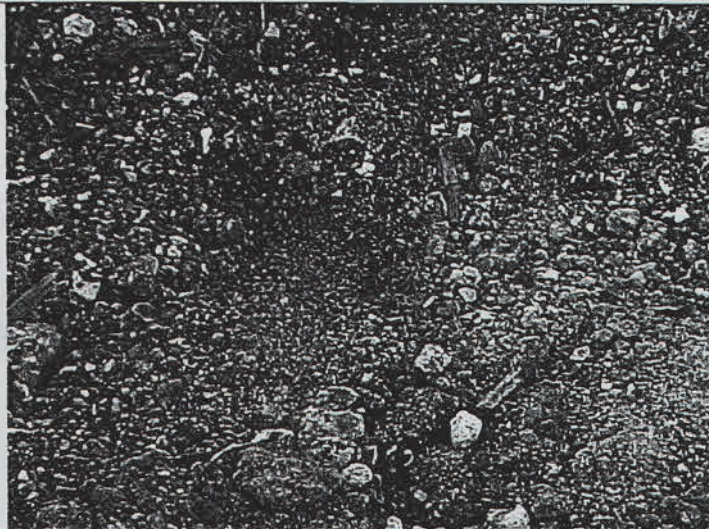


Photo 51



Photo 52

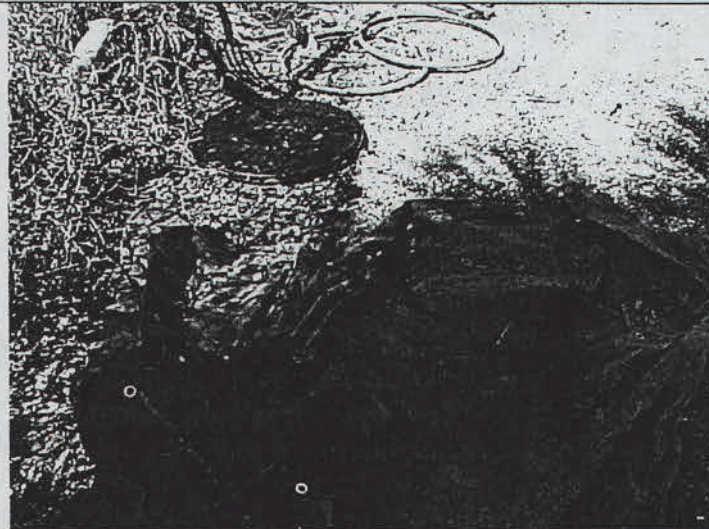


Photo 53



Photo 54





Photo 55



Photo 56

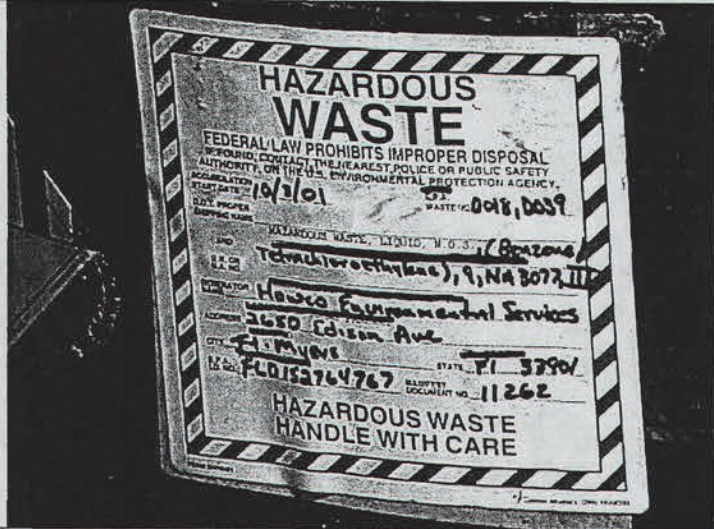


Photo 57



Photo 58

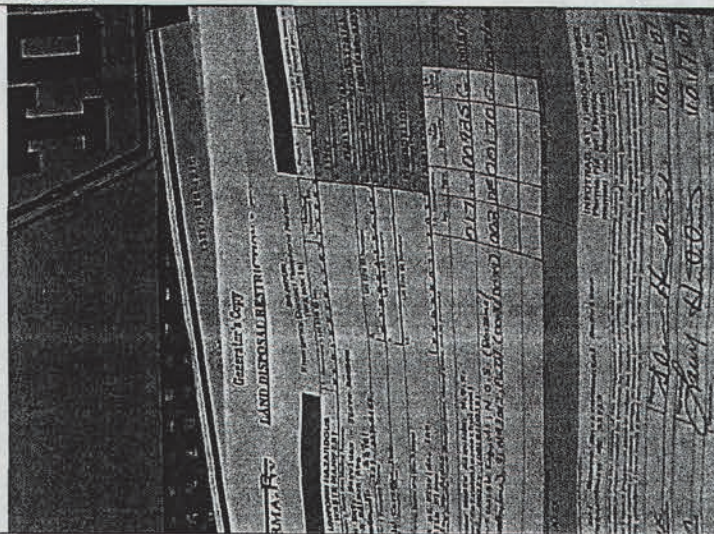


Photo 59

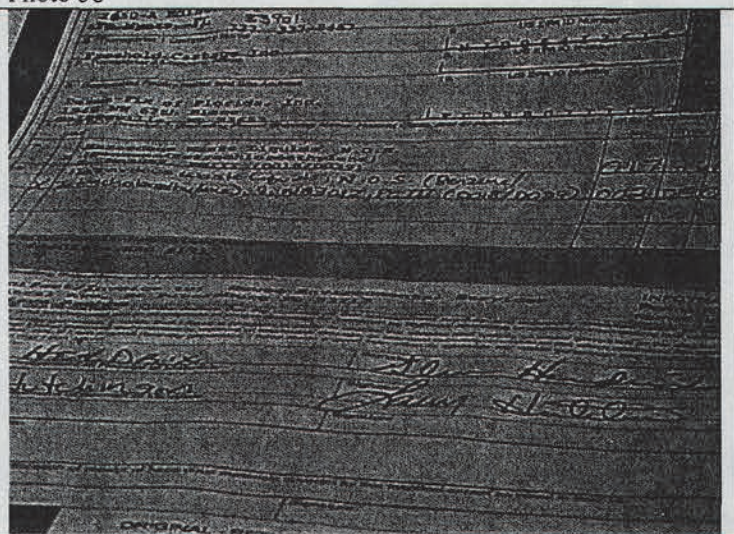


Photo 60



**Exhibit VI**



modifications to the approved plan shall be signed, sealed, and certified by a Professional Engineer registered in the State of Florida, in accordance with Chapter 471, F.S., and Rule 62-730.220(7), F.A.C.

#### **Part 11: Cleanup Target Levels and Termination**

54. The Department, at its option, may establish after review of all relevant information the cleanup target levels (CTLs) to which the contamination shall be remediated or may require the Respondent to implement a risk assessment process to develop such CTLs for the site. The CTLs for ground water as determined by the Department shall be the standards set forth in F.A.C. Chapter 62-520 (which incorporates by reference certain provisions of Chapter 62-550) and the Department's numerical interpretation of the Rule 62-520.400, F.A.C. minimum criteria. The Department's numerical interpretation of minimum criteria are found in Chapter 62-777, F.A.C. The CTLs for surface waters shall be the standards specified in Chapter 62-302, F.A.C., the minimum criteria and the toxicity criteria per Rule 62-302.530(62) F.A.C. The Department, at its option, may define the CTLs for soils and sediments or may require the Respondent to complete a risk assessment to define CTLs for soils or sediments that are sufficiently contaminated to present a risk to the public health, the environment or the public welfare. The cleanup goals for soils will be risk-based and if ground water contamination is present, may also be based on potential leachate generation. The Department has developed risk-based TCL for soils and sediments, promulgated in Chapter 62-777, F.A.C. These CTLs will be the default CTLs; however the Respondent may develop site specific soil/sediment ("SSCTLs") utilizing site specific parameters and the assumptions used by the Department in developing Chapter 62-777, F.A.C.

55. Soil decontamination or removal will be deemed complete when the analytical results of soil samples meet the CTLs established pursuant to Paragraph 54.

56. Within 60 days from the completion of all postclosure and corrective action requirements, Respondent shall submit to the Department by certified mail or hand delivery, a Certification of Clean Closure, signed by Respondent and an independent Professional Engineer, registered in the State of Florida, stating that corrective action for the facility was performed in accordance with the specifications approved in the approved P/CvAxP and that soil and ground water at and from the facility meet CTLs or SSCTLs. A Certification of Clean Closure will not be accepted by the Department until it is demonstrated by appropriate monitoring data that the ground water has met the CTLs established pursuant to Paragraph 54 for a minimum of three years after a corrective action system has been terminated.

57. The postclosure care/corrective action period at the facility shall not be deemed complete until all corrective action activities are complete and CTLs have been achieved for all contaminants of concern in all environmental media. If at any time, the Department or Respondent determines that hazardous waste (including decomposition products, hazardous constituents, leachate, and contaminated runoff) is present at or from the facility which cannot be removed or decontaminated to CTLs, Respondent must apply for and obtain a Hazardous Waste Postclosure Permit pursuant to Rule 62-730.260, F.A.C.



(i) provide Respondent with a written request for revisions or additional information. Respondent shall provide all requested revisions or information in writing to the Department within 30 days from receipt of said request. If the requested information requires additional time for a response, Respondent shall submit a written reasonable schedule for completing the work need to provide the requested information.

(ii) Draft specific modifications to the document and notify the Respondent in writing that approval of the document is being granted contingent upon those modifications being incorporated into the document.

(iii) Notify the Respondent that it has failed to meet the stated objectives for the document, in which case the Department may do any or all of the following: take legal action to enforce compliance with the Order; file suit to recover damages and civil penalties; or complete the corrective actions outlined herein and recover the costs of completion from Respondent.

(b) The Department may provide written approval of a portion of a submission without waiving its right to comment on or disapprove the remaining portions, and may require Respondent to implement the approved portion of the submission without waiting for final approval.

(c) Failure of the Department to point out errors or deficiencies in any reports shall not be construed as approval or waiver of the Department's right to disapprove or reject any task, report or certification, or to require additional assessment or remediation.

(d) Once a submission or any part of it has been approved by the Department, it shall become effective and made a part of the Order and actions required by the approved submission shall be initiated within the time set forth in the Department's written notification to Respondent that the submission or part has been approved ("the approval.") If no time for initiation is set forth in the approval or the approved submission, the time for initiation shall be within 30 days of the approval.

51. The Department's Groundwater Monitoring Checklist, Closure/Post-closure permit Application Review Checklist; and RCRA Corrective Action Plan Review Checklist are provided to Respondent for additional guidance and information.

#### **Part 10: Modifications**

52. Respondent may make a request to the Department to modify or revise any approved plan. The filing of a request for modification or notification of planned changes or anticipated noncompliance on the part of Respondent does not stay the applicability or enforceability of any Order condition. Any proposed amendments to an approved plan must be submitted to the Department in writing for review and approval at least 60 days prior to the anticipated date of implementing such change or not later than 60 days after the reason or need for such change has become apparent. All documents proposing modifications to the approved plan shall be signed, sealed, and certified by a Professional Engineer registered in the State of Florida, in accordance with Section 471, F.S., and Rule 62-730.220(7), F.A.C. In the event of an emergency requiring modification or alteration of a plan, the Department may, in its discretion, orally agree to an oral request for modification or alteration. The Respondent shall submit a written notification of any such modification or alteration documenting the emergency condition, the modification or alteration and the person from the Department approving the same within 3 days of the approval of the request.

53. The Department may request modifications to a plan approved under this Order for cause, including without limitation modifications to address additional assessment of impacted environmental media (soil, ground water, surface water, sediments, air) and/or biota including a request for further sampling, monitoring and remediation of the impacted environmental media based upon any information or data obtained after the effective date of this Order. If the Department determines at any time reasonable progress towards completion of assessment or corrective action is not being achieved, the Department will notify Respondent that additional and expanded corrective actions are required. When the Department requests that Respondent modify a Plan, Respondent shall submit the proposed modifications within 60 days of receipt of the request. All documents proposing



documents which are submitted to the Department may be used by the Department as evidence in any enforcement case arising under Florida Statutes and/or Department rules to the extent as is consistent with the Florida Rules of Civil Procedure and appropriate evidentiary rules. The Respondent may designate any records or plans as confidential trade secrets in accordance with §§403.111 or 403.73, Florida Statutes, and will have the burden of establishing the confidentiality basis if a request is made to the Department for release of such records or plans by a third party pursuant to the Florida public records law (Chapter 119, Florida Statutes).

45. On the first working day of each month, or on another schedule approved by the Department after initiating an ISCAP, CACP or P/CvAxP, Respondent shall submit written progress reports to the Department. These progress reports shall evaluate progress, describe the status of each required ISCAP, CACP or P/CvAxP task, discuss any new data, evaluate the effectiveness of the ISCAP and P/CvAxP, propose modifications and additional work as needed, and include the information required by the GW monitoring reports (par. 18) and the corrective action effectiveness report (par. 42). The reports shall be submitted until all planned tasks have been completed in accordance with the approved ISCAP, CACP, or P/CvAxP.

46. Respondent shall notify the Department at least seven days prior to any decontamination activities; well installations; assessment activities; or sampling, and shall allow Department personnel the opportunity to observe these activities or to take split samples. When the Department chooses to split samples, the raw data shall be exchanged between the Respondent and the Department as soon as the data are available.

47. Respondent shall immediately notify the Department of any circumstances that require modification of any task in an approved report or plan, and obtain Department approval prior to implementing any such modified tasks.

48. If, for any reason, Respondent does not comply with or will be unable to comply with any condition or limitation specified in this Order, Respondent shall immediately provide the Department with the following information:

(a) a description of and cause of noncompliance and

(b) The period of noncompliance, including dates and times; or, if not corrected, the anticipated time the noncompliance is expected to continue, and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

49. Any noncompliance which may endanger health or the environment including the release of any hazardous waste or constituent that may endanger public drinking water supplies, or the occurrence of a fire or explosion from the facility which could threaten the environment or human health outside the facility, shall be reported verbally to the Department and property owner within 24 hours, and a written report shall be provided within 5 days. The verbal report within 24 hours shall contain the name, address, and telephone number of Respondent's response coordinator/contractor, the name and quantity of materials involved, the extent of any injuries, an assessment of actual or potential hazards, and the estimated quantity and disposition of recovered material. The written submission shall contain:

(a) a description of cause of the noncompliance

(b) if not corrected, the expected time of correction and steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.

#### **Part 9: Department Review Procedures**

50. (a) The Department shall review all documents, plans, certifications, etc. submitted by Respondent in response to the requirements of this Order for completeness, appropriateness, and technical adequacy. In the event that the Department determines a document to be incomplete, inappropriate, or technically inadequate, the Department may do any or all of the following:



- (a) a narrative summary of the effectiveness of the corrective action system(s);
- (b) any minor revisions or adjustments to the corrective action system(s) or plan(s);
- (c) any proposed modifications to the corrective action system(s);
- (d) completed inspection logs for previous three months;
- (e) records of corrective action system(s) operation time, not including any minor (less than 24 hours) shutdowns for repairs, maintenance, *etc.*;
- (f) summary of ground water data (including graphical representation) with emphasis on the most common contaminants and those most difficult to treat;
- (g) ground water elevation contour maps from the previous quarterly event;
- (h) record of repairs;
- (i) other data as required by the approved P/CvAxP;
- (j) figure depicting the zone of capture of recovery wells including delineation of stagnation points for each well and each aquifer system (if applicable);
- (k) total volume of processed ground water (if applicable);
- (l) flow rates for each recovery well (if applicable);
- (m) summary of influent/effluent data, chain-of-custody reports, and lab reports (if applicable);
- (n) soil venting and air sparging data, if applicable.

43. Respondent shall hold at the Facility or other location designated by this Order records of all monitoring information (including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation) required by this order, copies of all plans, reports, drawings, or other documents required by this Order, and records of all data (including original field notes, boring logs, *etc.*) used to prepare reports, plans, or other documents for this order. These materials shall be retained at least three years from the date of the sample, measurement, or report unless otherwise specified by Department rule. Records of monitoring information shall include:

- (a) the date, exact place, and time of sampling or measurements
- (b) the person responsible for performing the sampling or measurements
- (c) the dates analyses were performed
- (d) the person responsible for performing the analyses
- (e) the analytical techniques or methods used, and
- (f) the results of such analyses.

44. When requested by the Department, Respondent shall within a reasonable time furnish all records and plans required under Department rules and any non-privileged information that is necessary to determine compliance with this Order. During enforcement actions, the retention period for all records will be extended automatically to completion of the enforcement action, unless otherwise stipulated by the Department. **ALL** records, notes, monitoring data and other information used to prepare plans, documents, drawing(s) or other



A copy of the Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, \_\_\_\_\_ and the Departments Hazardous Waste Regulation Section, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, (850) 488-0300.

(c) Within five days of submitting a P/CvAxP for Department review and approval, Respondent shall cause to be published in a major local newspaper or newspaper of general circulation the following notice:

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NOTICE OF SUBMISSION OF POSTCLOSURE AND CORRECTIVE ACTION PLAN

The Department of Environmental Protection gives notice that it has received a Postclosure and Corrective Action Plan ("Plan") proposed by \_\_\_\_\_. The Plan addresses closure and corrective action at a hazardous waste facility at \_\_\_\_\_. The public has an opportunity to submit written comments on the Plan, or to request modifications to the Plan, or to request a public hearing concerning the Plan if such a hearing might clarify one or more issues concerning the Plan. The Plan and supporting documents are available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, \_\_\_\_\_ and the Department's Hazardous Waste Regulation Section, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, (850) 488-0300. Written comments or a written request to modify the Plan or to hold a public hearing must be received by the Department of Environmental Protection, P. O. Box 15425, West Palm Beach, Florida 33416, no later than 30 days from the date of this Notice.

(d) Respondent shall provide the Department with proof of the publications and broadcast required by this paragraph within 14 days of receipt of proof of publication and broadcast.

40. (a) Respondent shall keep a copy of its approved CACP and all revisions to the Plan at the facility, a local office maintained by or for Respondent, or other location approved by the Department until closure is completed, certified in accordance with Paragraph 34, and certification is accepted by the Department. Respondent shall keep a copy of its CvAxP and all revisions to the plan at the facility or other locations designated pursuant to this Order until corrective action is completed and certified in accordance with Paragraph 56 and accepted by the Department.

(b) Respondent shall keep a log of CACP activities at the site until the completion of contamination assessment and closure. This log must be completed by an inspector trained in health and safety procedures and familiar with the hazardous waste closure activities and must include a brief report on each day's activities. This information must be submitted along with the certification of closure required by Paragraph 34 of this part. Since Professional Engineer Certification of Closure must be based on the PE's own observation and knowledge of the closure activities and not just a final walk-through inspection after closure is completed, the log must include regular and frequent PE visits.

41. Respondent shall maintain quarterly inspection logs describing results of inspections and remedial actions taken in maintaining any final cover, containment structures, corrective action system equipment, groundwater monitoring equipment, surveying benchmarks and security devices in order to comply with the P/CvAxP approved by the Department. The logs shall be submitted to Department on a quarterly basis unless a different schedule is agreed upon in the approved P/CvAxP.

42. Respondent shall submit to the Department a periodic report on the effectiveness of the corrective action system(s) after operation begins, and until the Department accepts the Certification of Clean Closure required by Paragraph 56, or the Department notifies Respondent that such reporting is no longer necessary. This report shall be submitted with the ground water monitoring reports pursuant to Paragraph 18. The following minimum items must be included in the report on the effectiveness of any corrective action system(s):



STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NOTICE OF CONSENT ORDER

The Department of Environmental Protection gives notice of agency action of entering into a Consent Order with \_\_\_\_\_. The Order addresses closure and corrective action of a hazardous waste facility located at \_\_\_\_\_. The Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, \_\_\_\_\_.

Persons whose substantial interests are affected by this Order have a right to petition for an administrative hearing on the Order. The Petition must contain the information set forth below and must be filed (received) in the Department's office of General Counsel, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000, within forty-five (45) 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 forty-five (45) days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 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 for the Order 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 Order; (c) A statement of how each petitioner's substantial interests are affected by the Order; (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 Order; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Order; (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the 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 Section 120.57, 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 pursuant to Rule 28-106.205, F.A.C.

Mediation is not available in this proceeding.

(b) Respondent shall broadcast over a local radio station or stations the following notice of entry into the Consent Order. The message shall be broadcast one time between the hours of 8 am and 10 pm. The broadcast shall be completed within 30 days after the effective date of this Order:

The Florida Department of Environmental Protection gives notice that it has entered into a Consent Order with \_\_\_\_\_. The Order addresses closure and corrective action at a hazardous waste facility at \_\_\_\_\_. A person who is substantially affected by the Department's action may request a hearing in accordance with Sections 120.569 and 120.57, Florida Statutes. Any person who opposes the Department's action may request a public meeting. If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final agency action may be different from the position taken in this preliminary statement. Therefore, persons who support the proposed agency action may also wish to intervene in the proceeding.

For more information concerning requirement of the petitioning process and the necessary time frames for filing or requesting a public meeting, please contact the Office of General Counsel in Tallahassee at (850) 488-9314.

ground water is being discharged to soils, to ground water or to surface waters, and the expected concentrations and approximate quantities of any contaminants which are reasonably expected to be discharged into the air as a result of the corrective action alternative;

(f) tables which summarize the proposed samples and analyses for each pertinent medium and include the appropriate number and type of quality assurance samples consistent with the requirements of Part 2 of this Guidance;

(g) details of the treatment or disposition of any contaminated soils or sediments;

(h) proposed methodology including post remediation soil sampling and ground water monitoring as applicable for evaluation of the site status after the corrective action alternative is complete to verify accomplishment of the objective of the P/CvAxP; and

(i) a schedule for completion including milestones which will allow tracking of the progress.

#### **Part 7: Financial Assurance**

38. Respondent shall establish and maintain financial assurance in an amount sufficient to cover all reasonably foreseeable costs of completing monitoring, assessment, corrective action, and remedial work at the facility, in the form of a trust fund, surety bond guaranteeing payment into a trust fund, surety bond guaranteeing performance, letter of credit, insurance, or financial test and corporate guarantee, worded as set forth in 40 C.F.R. 264.151(a), (b), (c), (d), (e), or (f), respectively, or a combination of these. In addition, until Respondent submits and the Department accepts a closure certification statement signed in accordance with Paragraph 34 that all hazardous waste has been removed and any regulated units have been decontaminated, Respondent shall demonstrate financial responsibility for bodily injury and property damage to third parties, in accordance with the requirements of 40 CFR 264.147. All submittals in response to this Paragraph shall be submitted in duplicate to:

Financial Coordinator  
Hazardous Waste Regulation Section  
MS 4650  
Department of Environmental Protection  
2600 Blair Stone Road  
Tallahassee, FL 32399

The initial cost estimate and submittal of the financial assurance mechanism for implementing the CACP is due with the CACP. Revised cost estimates, including an estimate for the corrective action alternative once a P/CvAxP is approved by the Department, and an updated financial mechanism documenting compliance must be submitted with any proposed modifications that would increase the cost estimates, or at least annually, within 60 days prior to the anniversary date of the establishment of the financial assurance mechanism.

If the Department does not agree with the Respondent's cost estimates the Department will notify the Respondent in writing of the determination. The Respondent shall then 45 days from the Department's notification to resubmit additional information or corrected documentation.

The provisions of paragraph 50 apply to Department review of financial assurance and financial responsibility submissions.

#### **Part 8: Notification, Recordkeeping, and Reporting**

39. (a) Respondent shall publish the following notice in a newspaper of daily circulation in \_\_\_\_\_ County, Florida. The notice shall be published one time only within ten days after the effective date of this Order.



Postclosure and Corrective Action Program as outlined in Part 6 of this document to ensure that all contaminants are remediated to cleanup target levels (CTLs).

#### **Part 6: Postclosure and Corrective Actions**

36. Within 60 days of Department approval of the CACR, Respondent shall submit to the Department a long-term, facility wide Postclosure/Corrective Action Plan (P/CvAxP) to address all contamination remaining at and from the facility. The objective of the P/CvAxP shall be to achieve the clean up of all contaminated media to cleanup target levels (CTLs). The P/CvAxP shall summarize the CACR findings and conclusions and state the approved CTLs for all media. The P/CvAxP must be certified by an independent professional engineer and a professional geologist, if required, both registered in the State of Florida. Ground water remediation shall continue until ground water concentrations of all constituents meet CTLs or until otherwise approved by the Department.

37. The Postclosure/Corrective Action Plan shall include at a minimum the following elements:

(a) provisions to operate and maintain the facility in a manner that will ensure protection of human health and the environment, including but not limited to prevention of any releases that may have adverse effects on human health or the environment due to migration of waste constituents in the ground water or subsurface environment, surface water, wetland, soil surface, or air;

(b) a plan for inspecting, testing and maintaining monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment, which includes a schedule, which identifies the types of problems to be looked for, which requires remedy of any deterioration or malfunction revealed by the inspection or testing, and which requires that the inspections are recorded in an inspection log or summary kept at the facility in accordance with Paragraph 41 below; The log must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other corrective action;

(c) rationale for the corrective action alternative proposed which shall include at a minimum:

(i) results from any pilot studies or bench tests;

(ii) evaluation of expected results for the proposed corrective action alternative based on the following criteria:

A. long and short term environmental impacts;

B. implementability, which may include, but not be limited to, ease of construction, site access, and necessity for permits;

C. operation and maintenance requirements;

D. estimates of reliability;

E. feasibility; and

F. estimates of costs

(iii) Soil cleanup criteria such that any remaining contaminated soils will not cause groundwater contamination in excess of CTLs;

(d) design and construction details and specifications for the corrective action alternative selected;

(e) operational details of the corrective action alternative including the disposition of any contaminated media, expected contaminant concentrations in the contaminated media, an effluent sampling schedule if treated

the historical locations of all components (gutters, troughs, sumps, transfer tanks, drain lines, pipe lines, etc.), of the sanitary, industrial, and spent chemical wastewater systems;

(iii) detailed historical information on past chemical and waste spills, including detailed written descriptions of and maps illustrating the historical locations of all known spills and releases (leaking pipes, drums, accidents, etc.) and response actions taken, if any;

(c) complete horizontal and vertical delineation of the contaminated environmental media (soil, soil vapor, ground water, surface water, sediment, and air); Should analytical data indicate that the delineation of contamination is not complete, Respondent shall notify the Department within seven days and immediately undertake necessary steps to further delineate the plume.

(d) slope(s) of the clay unit(s), isopach maps of the various lithologic units, and depth-to-clay map

(e) regional and site-specific geologic surveys including a karst survey and hydrologic fence-diagrams or cross-sections; presence, thickness and elevation for the top of the clay unit

(f) laboratory analytical data for all environmental media samples

(g) all other information required by the approved CACP

(h) a summary of conclusions regarding the CACP objectives, including a statement as to whether or not CTLs are met for all constituents of concern in all environmental media

(i) a recommendation, with justification, concerning additional corrective action

33. The procedures outlined in Paragraph 50 apply to Department review of the CACR.

34. Within the schedule approved by the Department in the CACP, or if no schedule is approved, then within 180 days of Department approval of the CACP, Respondent shall submit to the Department, by certified mail or hand delivery, a report called "Certification of Closure," signed by a representative of Respondent and an independent professional engineer registered in the State of Florida, stating that the facility has been closed in compliance with this Order and specifications in the approved CACP. The Certification of Closure must be based on the Professional Engineer's own observation and knowledge of the closure activities. The Certification of Closure must include, but not be limited to, the following:

(a) manifests generated during the removal of hazardous wastes and all contaminated residues containing hazardous constituents including manifests for the drilling cuttings and fluids for well installation, if necessary

(b) final report on the effectiveness of any treatment and recovery systems

(c) all analytical results

(d) decontamination demonstration data

(e) closure activities logs

(f) a final inspection checkoff sheet (in the standard form supplied to Respondent by the Department).

35. The Department shall not accept the Respondent's Certification of Closure until all hazardous waste determined to be a potential source of continuing ground water contamination has been removed. The Department may accept the Certification of Closure for physical closure of hazardous waste management units, although contaminated environmental media may still be present at the facility provided Respondent implements a



(n) a plan for inspecting, testing and maintaining monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment, which includes a schedule, which identifies the types of problems to be looked for, which requires remedy of any deterioration or malfunction revealed by the inspection or testing, and which requires that the inspections are recorded in an inspection log or summary kept at the facility in accordance with Paragraph 40 below; The log must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other corrective action

(o) a commitment to obtain necessary approvals from the water management district prior to installation of any wells;

(p) a schedule for completion including milestones which will allow tracking of the progress of closure, completing each task, preparing the Contamination Assessment and Closure Report (CACR) and submitting the CACR.

Techniques which may be proposed include, but are not limited to: piezometers; permanent monitoring wells; direct push technologies; microwells; electromagnetic conductivity (EM); vapor analyzers; other geophysical methods; fracture trace analysis; sampling of public and private wells, soils, sediments, air, surface water; magnetometers; ground penetrating radar, or metal detectors to detect tanks and lines; aquifer pump tests; representative slug tests.

30. The procedures outlined in Paragraph 50 apply to Department review of the CACP.

31. Once a CACP has been approved by the Department, it shall become effective and made a part of the Order and shall be initiated within thirty (30) days from receipt of the Department's notification to the Respondent that the CACP has been approved. Respondent shall implement the approved CACP, including all required modifications to the CACP identified by the Department, within the approved timeframe. All reporting and notification requirements spelled out in Part 8 shall be complied with during the CACP implementation.

32. Within the schedule approved by the Department, or if no schedule is approved, then within 120 days of Department approval of the CACP, Respondent shall submit to the Department a Contamination Assessment and Closure Report (CACR). The CACR shall include, at a minimum, as appropriate for the specific facility, the following information:

(a) (i) "Well Construction Summary Report" [DER Form 62-730.990(2)(b)] for each well, existing and newly installed

- (ii) a location map of all new and existing wells with correct orientation and scale
- (iii) a description of protective devices for each well
- (iv) well development procedures and duration of well development
- (v) disposal of boring soils, drilling muds and fluids, and purge water
- (vi) detailed lithologic logs including soils classification used, the geologist or geotechnical person responsible for compiling the lithologic logs, and sampling devices and intervals
- (vii) seasonal water levels

(b) a detailed site history including

(i) detailed inventory of chemicals and additives used at the facility (volumes, chemical and physical characteristics, reaction and degradation products), and their MSDS's (or equivalents); written descriptions of and maps illustrating the historical locations of chemical storage and usage [type, volume, process equipment, and location];

(ii) detailed historical information on the design and operation of all solid, industrial, hazardous, and chemical waste management units including detailed written descriptions of the types and volumes of waste treated, stored or disposed, dimensions of the unit(s), effluent flow rates, operational history, and maps illustrating

and transport of contaminants; a description of methods proposed to determine aquifer properties (e.g., aquifer pump tests, representative slug tests, permeability tests, computer modeling); a description of site features (both natural and man-made) pertinent to the assessment; a determination of the top of the first clay unit with an analysis of how it might affect contaminant migration;

(e) identification of the state listed endangered and threatened flora and fauna species at or within 0.25 (one-quarter) mile of the facility;

(f) a detailed technical approach and description of proposed methodologies describing how proposed tasks are to be carried out, including a detailed description of steps needed to remove or decontaminate all hazardous waste residues and contaminated system components, equipment, structures, and soils; procedures for cleaning equipment and removing contaminated soils; and criteria for determining the extent of decontamination required to satisfy the closure performance standard;

(g) description of sampling and analytical methods to be used to identify and quantify concentrations of constituents of concern in all media; a description of methods and equipment to be used to identify and quantify soil or sediment contamination, including dry bulk density, soil porosity, soil moisture and total organic carbon (for site specific leachability cleanup goals); a description of water and air sampling methods; details of any other assessment methodology including innovative assessment technologies proposed for the site; tables which summarize the proposed samples, analyses, and method detection limits for each medium compared to state standards/criteria or generic cleanup goals. Include the appropriate number and type of quality assurance samples;

(h) proposed sampling locations and rationale for their placement, including but not limited to a detailed proposal to collect an appropriate number of representative soil samples from appropriate locations;

(i) lists of parameters that soil and ground water samples will be analyzed for, analytical methods to be used, and detection limits of these methods with justification for their selection. The CACP shall contain a list of proposed parameters for soil sampling based on information of chemical usage and waste generation at the facility, and shall provide for analysis of some representative soil samples for all parameters listed in 40 CFR Part 261 Appendix VIII. The constituents listed in 40 CFR Appendix IX will be the initial ground water monitoring parameters. Proposed deviations from this list must be justified in writing, and must be accompanied by a signed certification pursuant to 40 CFR 270.11(d). Respondent shall use EPA Document SW-846 sampling and analysis methods (latest revision) or any other method that Respondent demonstrates to the Department's satisfaction is appropriate. Should the laboratory detect any tentatively identified compounds (TICs) while completing analyses, the laboratory shall report and quantify these TICs in accordance with their QA/QC and standard laboratory protocols;

(j) a description of any survey to identify and sample public or private within a 1.0 (one) mile radius of the facility; Surveys should include Water Management District, local and county health department files, utility companies and detailed door-to-door reconnaissance for a minimum distance of one mile;

(k) detailed proposals to properly collect, characterize, manage and dispose of all wastes, solids and free liquids including but not limited to run-on and run-off fluid accumulations, drill cuttings, development and purge water from installation of monitoring wells and decontamination rinsewaters (all manifests and other disposal documents generated as a result of removal or decontamination activities must be submitted to the Department in the Certification of Closure pursuant to Paragraph 34 below)

(l) detailed procedures to demonstrate that removal or decontamination has been effective, including but not limited to procedures for sampling to verify that all contaminated soils have been removed and procedures for additional excavation if data shows cleanup target levels are exceeded in remaining soils

(m) a detailed description of other activities necessary during the closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including but not limited to ground water monitoring, leachate collection, and run-on and run-off control



26. Once an ISCAP has been approved by the Department, it shall become effective and made a part of the Order and shall be initiated within thirty (30) days from receipt of the Department's notification to the Respondent that the ISCAP has been approved. Respondent shall implement the approved ISCAP, including all required modifications to the ISCAP identified by the Department, within the approved timeframe. All reporting and notification requirements spelled out in Part 8 shall be complied with during the ISCAP implementation.

#### **Part 5: Contamination Assessment and Closure Plan**

27. Within 45 days of the effective date of this order, Respondent shall submit to the Department a Contamination Assessment and Closure Plan (CACP) for the facility to investigate locations where contamination of the ground water, surface water, soils or sediments is known or documented or probable.

28. The purpose of the CACP is to propose investigations intended to generate the information necessary to characterize the known or suspected impacted environmental media at and adjacent to the Facility to the extent necessary to develop a corrective action plan that will meet the CTLs; and (b) to propose procedures to cease operation of and remove or decontaminate all hazardous waste management units in a manner that meets the closure performance standard of 40 CFR 264.111.

29. Respondent shall submit a CACP that will either provide or provide for the collection of, at a minimum as appropriate for the specific facility, the following information:

(a) determination or confirmation of all contaminant source areas. This element shall include a description of all facility features (even historical) that had the potential to contribute to environmental contamination at this site, namely; a detailed inventory of chemicals and additives used at the facility (including volumes, chemical and physical characteristics, reaction and degradation products), and their MSDS's (or equivalents); detailed historical information on chemical management practices, including detailed written descriptions of and maps illustrating the historical locations of chemical storage and process equipment; detailed historical information on past chemical and waste spills, including detailed written descriptions of and maps illustrating the historical locations of all known spills and releases (leaking pipes, drums, accidents, etc.) and response actions taken, if any; detailed historical information on the design and operation of all solid, industrial, hazardous, and chemical waste management units including detailed written descriptions of the types and volumes of waste treated, stored or disposed, dimensions of the unit(s), effluent flow rates, discharge points, operational history, and maps illustrating the historical locations of all components (gutters, troughs, sumps, transfer tanks, drain lines, pipe lines, etc.) of all sanitary, industrial, and spent chemical wastewater systems; an estimate of the maximum inventory of hazardous wastes ever on site over the active life of the facility; a summary of current and past environmental permits and enforcement actions; a USGS topographic map showing the facility location; and an inventory of potential pollution sources within 0.25 (one quarter) mile. If leaking storage tanks may be the source of the contamination, determination of the structural integrity of all aboveground and underground storage systems (including integral piping) which exist at the site (if applicable);

(b) results of any previous site investigations addressing the impacts to the surface or ground water quality, sediment quality, or biota. Results of any preliminary ground water flow evaluation and/or stratigraphy investigation must be included. If no reliable information exists, Respondent shall consider following a phased approach or conducting a limited pre-CACP investigation to determine groundwater flow direction and stratigraphy;

(c) a complete characterization, both onsite and offsite, of the lateral and vertical extent of contamination in each impacted environmental media (air, soil, soil vapor, sediment, surface water and ground water);

(d) a determination or confirmation of the likely routes of contaminant migration and mechanisms of contaminant transport; the rate and direction of contaminant movement in the air, soils, surface water and ground water; and rate and direction of ground water flow; a description of the regional geology and hydrogeology of the area surrounding the site; a description of geologic and hydrogeologic characteristics of affected and potentially affected hydrogeologic zones (such as aquifers, confining beds, and unsaturated zones) which influence migration

migrated (a) all property owners onto which the contamination is known or suspected by the Respondent to have

(b) all onsite operators within the property boundary

(c) Water Management District(s) with jurisdiction on the contaminated properties

(d) city, county or other local environmental agencies with jurisdiction on the contaminated properties,

(e) EPA Region 4.

23. In addition, if groundwater contamination has migrated into any media beyond the property boundary or to other areas within the property boundary under the control of operators other than Respondent, Respondent shall immediately notify the local unit of the Department of Health and the Bureau of Water and On-site Sewage Programs in Tallahassee at (850) 414-2889. Copies of the notification letters and proof of receipt must be submitted to the Department within 45 days of the of the Department's approval of the letter.

#### **Part 4: Interim Source Control Actions**

24. If at any time the Department determines or the Respondent proposes that an Interim Source Control Action (ISCA) is appropriate to remove specific known contaminant source(s), and/or provide temporary controls to prevent or minimize contaminant migration or protect human health, the Respondent shall submit to the Department a detailed written Interim Source Control Action Plan (ISCAP). The ISCAP shall be submitted within sixty (60) days following Department determination that an ISCAP is appropriate. Implementation of the ISCAP shall not spread contaminants into uncontaminated or less contaminated areas through untreated or undertreated discharges or improper treatment. The ISCAP may include the following, as appropriate:

(a) rationale for the ISCA and the objectives proposed, incorporating engineering and hydrogeological considerations including, as applicable, technical feasibility, long-term and short-term environmental effects, implementability (including any permits or approvals from federal, state, and local agencies), and reliability

(b) design and construction details and specifications for the ISCA

(c) operational details of the ISCA including descriptions of the methods to be used to ensure compliance with 40 CFR Part 262 and 268 requirements or proposed alternative requirements to 40 CFR Part 262 under 40 CFR 264.553. Details must include the proposed treatment or disposition of any contaminated media, expected contaminant concentrations in the contaminated media, an effluent sampling schedule if treated ground water is being discharged to ground water, surface water, or to the ground; and the expected concentrations and approximate quantities of any contaminants discharged into the air as a result of corrective action. A waste analysis plan complying with 40 CFR 268.7(a)(4) is required for any planned treatment of waste to meet land disposal restriction treatment standards

(d) operation and maintenance plan for the ISCA including, but not necessarily limited to daily, weekly, and monthly operations under routine conditions; a contingency plan for nonroutine conditions

(e) details of the decontamination methods for any equipment or structures that will come in contact with hazardous waste constituents

(f) proposed methodology including post-ISCA soil, sediment, surface water, and ground water monitoring, as applicable, to confirm the effectiveness of the interim corrective action, and

(g) schedule for the completion of the ISCA.

25. The procedures outlined in Paragraph 50 apply to Department review of the ISCAP.



(d) procedures for evaluating data including any statistical procedures.

(e) proposed cleanup target levels (CTLs) established pursuant to paragraph 54 below.

(f) a site-specific Quality Assurance Project Plan (QAPP) pursuant to Chapter 62-160, F.A.C.

17. Respondent shall include the following the sampling and analytical procedures in the GWMP:

(a) Measuring the total depth of each well to the bottom of the casing. This shall be performed immediately after new wells are developed, and on an annual basis for all wells thereafter. If siltation is occurring, the well shall be cleaned out, repaired or replaced.

(b) If a well is purged dry, it should be allowed to recover and be sampled within four hours, if possible. Composite groundwater samples for the purposes of confirmatory sampling are not permissible.

(c) If wells are to be abandoned, they shall be abandoned in accordance with Rule 62-500(4), F.A.C.

(d) All groundwater analyses must be conducted on unfiltered samples. Analyses on filtered samples may be performed for the facility's own use. [Rule 62-730.220(5)(h)(2), F.A.C.]

18. Respondent shall submit periodic groundwater monitoring reports to the Department that includes information required by Paragraphs 16, 17, 19 and 20. If practical, these reports should be included with reports on the effectiveness of ISCA or final corrective actions. If for any reason Respondent is unable to submit reports within the specified time, Respondent must comply with Paragraph 48.

19. The GWMP may be modified throughout the lifetime of this project, as additional information becomes available.

20. Immediately prior to implementation of any groundwater treatment system where groundwater is withdrawn from an aquifer, Respondent shall measure and record all groundwater and surface water elevations. Upon implementation of the ground water recovery system, Respondent shall measure all monitoring wells and piezometers for groundwater elevations at the following intervals unless an alternate schedule is approved by the Department:

(a) one hour after startup

(b) eight hours after startup

(c) twenty-four hours after startup

(d) weekly after startup for one month

(e) after the first month, in accordance with the frequency approved as part of the GWMP pursuant to Paragraph 16.

21. If, at any time, Respondent or the Department determines that groundwater contamination has migrated beyond the established zone of capture for any recovery system, Respondent shall propose, to the Department, additional recovery wells and/or increased pumping rates or additional corrective action within 30 calendar days of the determination.

22. If, at any time, Respondent or the Department determines that contamination has migrated or is suspected to have migrated into any media beyond the boundary of all contiguous property under the ownership of Respondent ("property boundary") or beyond the area under the control of Respondent (including areas within the property boundary controlled by persons other than Respondent) then Respondent shall notify the Department within seven calendar days. This notification shall include a proposed notification letter and a list of known and potentially affected property owners and operators, for Department approval, before Respondent sends the notification letter to other parties listed below. Within 30 days of Department approval of the notification letter, Respondent shall notify, by certified or registered mail, at a minimum the following list of people and agencies:

organizations and laboratories must follow the protocols outlined in their respective CompQAP(s) in order for the data to be reliable. At this time, the FDEP QA Officer will issue a letter that summarizes the activities each organization is qualified to perform. These activities must be consistent with the activities proposed in the Interim Source Control Action Plan (ISCAP), Contamination Assessment and Closure Plan (CACP), pilot tests/bench tests and Postclosure/Corrective Action Plan (PCCvAxP).

12. If at any time sampling and/or analysis activities are anticipated which are not in the Department-approved CompQAP, and the Respondent wishes to maintain the services of the affected organization(s), the organization(s) shall submit amendments to add the capabilities to the CompQAP(s). Such amendments shall be approved before the proposed activity(s) may be conducted. The letter approving such amendments, and signed by the FDEP QA Officer, shall be submitted to the Department.

13. If the organization(s) or laboratory(s) performing the sampling and analysis change at any time during the assessment and corrective actions, documentation of its Department-approved CompQAP (as outlined in Paragraph 11 above) shall be required.

14. If approval of the CompQAP for a specified organization expires during the course of implementing these Actions, the Respondent shall discontinue using the organization until 1) the organization obtains CompQAP approval or 2) another organization with a Department approved CompQAP is selected and documentation outlined in Paragraph 11 above is submitted.

15. The Department reserves the right to reject any results generated by the Respondent if any organization performs an activity that is not specifically approved in its CompQAP, if there is reasonable doubt as to the quality of the data or method used, if the sampling and analysis were not performed in accordance with the approved CompQAPs or if the CompQAP of any organization expires.

### **Part 3: Groundwater Monitoring Program**

16. Within 45 days of issuance of this Order, Respondent shall submit to the Department a proposal for a sitewide Groundwater Monitoring Program (GWMP) designed to monitor groundwater and surface water quality. A groundwater checklist is attached as guidance in developing the GWMP. This GWMP shall be submitted with the Closure and Contamination Assessment Plan pursuant to Part 5 below. At a minimum, the GWMP shall include:

(a) a sufficient number of wells installed at appropriate locations and depths to yield groundwater samples from all contaminated aquifers and aquifers that could be impacted by the known or suspected contamination.

(b) a sufficient number of wells, piezometers and staff gauges located in appropriate locations and depths in order to obtain seasonal groundwater and surface water elevation data. These data shall be used to determine horizontal and vertical flow rates and directions for groundwater. Respondent shall measure groundwater elevations every time any well is sampled. The surface water elevation shall be measured every time the groundwater elevations are measured. All groundwater and surface water elevations must be measured within the same 8-hour period. If groundwater elevations indicate a change in groundwater flow direction of any aquifer, the Department may require the installation of additional monitoring wells and revisions to the GWMP. a frequency of monitoring that includes seasonal variation. Groundwater monitoring shall be conducted until the Department approves a Certification of Clean Closure.

(c) a parameter list that includes all known chemicals that were part of all wastestreams, including hazardous wastes, hazardous constituents, decomposition products, leachate, and contaminated run-off. This parameter list shall be based upon known wastestreams and the Appendix VIII and/or IX sampling performed as part of the contamination assessment. Additional parameters shall include pH, specific conductivity and dissolved oxygen. Parameters may include those for assessing the potential of natural attenuation as a corrective action option.



the number(s) of the condition(s) affected, the Office of General Counsel (OGC) case number and the project name of the facility involved.

6. The Department of Environmental Protection's 24-hour emergency telephone number is (850) 413-9911. During normal business hours, the DEP District Office may be contacted at (941) 332-6975.

7. (a) Respondent shall maintain compliance with the security provisions of 40 CFR Part 264.14 throughout the time period required to complete the actions required by this Order, to prevent the unauthorized entry of persons or livestock onto the Facility.

(b) Respondent shall meet the training requirements of 40 CFR Part 264.16; the Preparedness and Prevention requirements of 40 CFR Part 264 Subpart C; and the Contingency Plan and Emergency Procedures of 40 CFR Part 264 Subpart D, as they apply to the activities of this Order.

8. This Order concerns a confirmed contaminated site where there may be a risk of exposure to the public, and therefore, Respondent shall comply with the warning sign requirements of § 403.7255, F.S. and Rule 62-730.181(3), F.A.C.

(a) Warning signs shall be at least 2 feet by 2 feet, made of a durable weather resistant material, with a white background and red lettering of a size indicated as follows:

2" Letters----->

WARNING  
NO TRESPASSING!

1" Letters----->

CONTAMINATED AREA  
AVOID CONTACT WITH  
SOIL AND WATER  
FOR INFORMATION  
CALL FDEP SOUTH DISTRICT - (941) 332-6975

(b) Warning signs shall be placed at all entrances and other access points and around the perimeter of any contaminated sites, treatment system areas, waste site study areas and sites with hazardous waste covers, at intervals of no greater than 100 feet and in sufficient numbers as to be seen from any approach.

(c) Respondent is responsible for supplying, installing and maintaining the warning signs.

9. Respondent shall properly operate and maintain all systems of treatment and control (and related appurtenances) that currently exist or any future systems installed or used by Respondent to achieve compliance with the conditions of this Order.

10. Respondent is required to comply with all applicable local, state and federal regulations and to obtain any necessary approvals/permits from local, state and federal authorities in carrying out these closure/corrective actions.

## **Part 2: Quality Assurance**

11. Pursuant to Rule 62-160.300(7)(h), Florida Administrative Code (F.A.C.), the quality assurance requirements for actions under this Order are Category 3. Therefore, within 30 days of the effective date of the Order incorporating these Actions ("the Order"), the Respondent shall submit to the Department documents certifying that the organization(s) and laboratory(s) performing the sampling and analysis have a Department-approved Comprehensive Quality Assurance Plan (Comp QAP) in which each is approved for the sampling and analysis activities each will perform as part of the assessment and corrective actions at the site. The documentation shall, at a minimum, contain either the most recent TITLE PAGE (signed by the FDEP QA Officer) and TABLE OF CONTENTS of the Department-approved CompQAP (if the CompQAP is a 15-section document) or the most current CompQAP letter of approval signed by the FDEP QA Officer. All identified

## CLEAN CLOSURE PLAN FOR HAZARDOUS WASTE FACILITIES

### Index

<u>Section</u>	<u>Paragraphs</u>
Part 1 General Conditions	1 through 10
Part 2 Quality Assurance Certification	11 through 15
Part 3 Groundwater Monitoring Program	16 through 23
Part 4 Interim Source Control Actions	24 through 26
Part 5 Contamination Assessment and Closure Plan	7 through 35
Part 6 Postclosure and Corrective Actions	36 through 37
Part 7 Financial Assurance	38
Part 8 Notification , Recordkeeping, and Reporting	39 through 49
Part 9 Department Review Procedures	50 through 51
Part 10 Modifications	52 through 53
Part 11 Cleanup target levels and Termination	54 through 56

### Part 1: General Conditions

1. Once adopted and incorporated into a Consent Order, Final Order, Consent Final Judgment, or Final Judgment, the terms, conditions, requirements, limitations, and restrictions set forth in this guidance are "Order conditions" and are binding and enforceable pursuant to Florida statutes. Hereafter, this guidance and the Order adopting it shall be referred to as "this Order."

2. This Order is valid only for the specific assessment and remedial plans (however denominated) applied for and approved by the Department. Any unauthorized deviation from these approved documents, specifications, or conditions of this Order may constitute grounds for enforcement action by the Department against Respondent. Respondent is placed on notice that the Department will review compliance periodically and may initiate enforcement actions for any violation of this Order.

3. All submittals in response to this Order shall be signed by a responsible corporate officer or by a representative duly authorized in writing by a responsible corporate officer. Any person signing a submittal shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment for knowing violations."

4. Preparation and implementation of all plans, actions and submittals required by this Order which concern engineering features shall be in accordance with sound professional engineering practices pursuant to Chapter 471, F. S.; and all plans, actions and submittals involving the practice of the profession of geology shall be in accordance with sound professional geological practices pursuant to Chapter 492, F.S. All submittals concerning engineering features shall be worded, signed and certified by a qualified, professional engineer registered in the State of Florida in accordance with Chapter 471, F.S. and Rule 62-730.220(7), F.A.C. All submittals incorporating interpretation of geological data shall be signed and sealed by a Professional Geologist registered in the State of Florida in accordance with Chapter 492, F.S. and Rule 62-730.220(8), F.A.C.

5. All documents submitted pursuant to the conditions of this order shall be accompanied by a cover letter stating the name and date of the document submitted, whether a general or specific condition, the part number(s),