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December 17, 1997

Via **HAND DELIVERY**

Thomas W. Conrardy, P.E.  
P.E. Administrator  
Bureau of Petroleum Storage Systems  
Florida Department of Environmental Protection  
2600 Blair Stone Road  
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Re: Rinker Materials Corporation; Request for Approval of  
Alternate Procedures, Rinker Materials Thermal Treatment Facility

Dear Tom:

On behalf of Rinker Materials Corporation, thank you for your correspondence to Steven C. Cullen, P.E., of Koogler and Associates dated October 22, 1997. Your letter responds to a Request for Approval of Alternate Procedures filed on July 16, 1997, seeking DEP approval for Rinker to continue acceptance and treatment of petroleum contaminated media and debris in its permitted thermal treatment facility. The contaminants of concern to be treated are the same petroleum constituents found in contaminated soils from petroleum cleanup sites, which Rinker treats pursuant to DEP permits issued under Chapters 62-775 and 62-296, Florida Administrative Code. Because your response raises both technical and legal issues, I have prepared this response in consultation with Mr. Cullen for your consideration. We trust that this information will be sufficient to allow DEP to issue its final approval of the alternate procedures request.

As we discussed during a meeting in your office on December 3rd, Rinker's primary concern is that according to your response letter

*"the analysis of the contaminated materials described (by Rinker) by TCLP would not be discretionary and would be required in all instances if we allowed thermal treatment of those materials. A TCLP analysis would be required for each individual generator source of those materials."*

While Rinker certainly has no objection to a requirement that the generator of the petroleum contaminated debris perform a hazardous waste determination in accordance with the requirements of 40 CFR Section 262.11, the requirement for a TCLP analysis in every instance is unduly burdensome and would create an economic disincentive to use thermal treatment of such materials as opposed to the landfilling of the materials, which would not require a TCLP analysis in all

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instances. The hazardous waste determination requirements of 40 CFR Section 262.11(c), specifically authorize the determination to be made based upon the generator's "process knowledge" of the waste materials.

The issue of establishing uniform standards for treatment and disposal of petroleum contaminated soils and debris has been the subject of ongoing discussion in the Division of Waste Management, as well as the Office of General Counsel. For example, rule development proceedings are underway to revise Chapter 62-775, Florida Administrative Code, to include uniform standards for treatment and disposal of petroleum contaminated soils. The Department has also recently proposed rules which would specifically authorize the landfilling of "oily wastes", without the requirement for TCLP analysis of each generator source of such materials. Under the proposed rule amendments, "oily wastes" including absorbents, rags, kitty litter, etc., could be disposed of in a landfill, without the necessity of TCLP laboratory analysis to determine whether or not the materials are characteristically hazardous. Rinker has previously written to Chris McGuire in the Office of General Counsel requesting that DEP apply a uniform policy to the landfilling and thermal treatment of such materials. (See enclosed correspondence) Mr. McGuire has indicated his agreement that there should be consistency in the Department's policy for handling such materials.

In order to finalize the issuance of DEP's approval of the pending Alternate Procedures Request, Rinker proposes that a condition be included in the approval to require that Rinker obtain from each generator, verification that a hazardous waste determination of the materials has been performed and that the materials have been determined to be non-hazardous. Once the materials are accepted by Rinker as non-hazardous, they will be managed in the same manner as petroleum contaminated soils pursuant to Chapter 62-775, F.A.C. and Rinker's existing permit. This should address the Department's concerns and provide for consistency in the policy for handling petroleum contaminated media and debris.

Thank you for your consideration. If you have any questions or need additional information, please contact Steve Cullen, Mike Vardeman, or me.

Sincerely,



Geoffrey D. Smith

GDS:sa

Enclosure

cc: Steve Cullen, P.E.  
Chris McGuire, Esq.  
Mike Vardeman