

May 26, 2004

Mary Jean Yon  
District Director, Northwest District  
Florida, Department of Environmental Protection  
160 Governmental Center  
Pensacola, Florida 32501-5794

Re: Big Wheel Recycling/Aztec Environmental  
Panama City, Florida  
Permit Number: 0161334-002-SO

Dear Ms. Yon:

Enclosed please find two White Papers authored by Florida PEER relating to the Big Wheel Construction and Debris Landfill on Steelfield Road in Panama City, Bay County, Florida.

The above-referenced White Papers detail continual violations of Florida's environmental laws. The primary violations include (1) groundwater contamination, (2) unauthorized disposal of regulated asbestos containing material, (3) the failure to provide sufficient numbers of spotters and/or operators on site, and (4) the failure to have properly trained spotters and/or operators on site.

The violations referenced in Florida PEER's White Papers have been documented by your Panama City Branch Office and are confirmed in inspection reports and groundwater studies found in that office's compliance and enforcement files. Despite that office's obvious knowledge of said violations there has been a conspicuous failure on the part of the Department to take any formal enforcement. While a warning letter was sent to the violator in December 2002, violations subsequent to issuance of (and receipt of) the warning letter were documented by the Department. Notwithstanding the continued failure to come into compliance, the warning letter was not followed by any further enforcement, i.e. issuance of consent orders or more formal filings with the appropriate circuit court.

The White Papers cover the wide spectrum of violations that your Department has identified at the site. Thus, I will not restate them herein. However, the administrative rule provisions that are implicated in the groundwater area are: FAC Rules 62-520.420, 62-550.310, 62-550.320, 62-520.400, F.A.C. 62-701.300(2)(b), and 62-701.300(2)(h). There have been repeated violations of Specific Conditions 35 and 38 of the Permit. The area's groundwater has consistently exceeded water quality standards with respect to aluminum since at least March 2002, yet your office has not taken enforcement or even confirmed whether the facility's wells are in proper working order. Indeed, the

Department's files do not reflect that anyone from your Department has even visited the site in relation to the groundwater issue since the Permit was issued in August 2001.

The non-groundwater issues are varied. The most serious of those violations has been the finding of regulated asbestos containing material (RACM) at the site in violation of Permit Specific Condition 25. F.A.C. 62-701.300(2)(e) and 40 CFR. Part 61, Subpart M, are directly applicable to these violations. In addition, the Department's files allege the following rule violations (most of them repeated) at the facility: F.A.C. 62-701.730(19), 62-701.300(8)(d), 62-701.300(8)(e), 62-701.730(4)(c), (6), (7)(c) & (7)(d), 62-701.730(7)(d), F.A.C. 62-701.730(8)), and 62-701.320(1), 62-4.030, and 62-701.320(15).

§ 403.061(8), Fla. Stat., requires your Department to, "[i]ssue such orders as are necessary to effectuate the control of air and water pollution and enforce the same by all appropriate administrative and judicial proceedings." § 403.121, Fla. Stat., authorizes your Department to obtain appropriate judicial and/or administrative relief as necessary to enforce Florida's environmental laws. Injunctive relief may be obtained in any circuit court of competent jurisdiction under § 403.131, Fla. Stat.

Florida PEER maintains that the facility's violations as identified in your Department's compliance and enforcement files more than justify formal enforcement. The violations certainly justify more than the mere issuance of a warning letter. We are therefore asking that your Department exercise its obligation to uphold and enforce Florida's environmental laws at this time through the filing of any and all actions as may be necessary in relation to this Permit.

Sincerely,

Jerry Phillips  
Director

Encl.

Cc.: Colleen Castille, Secretary, FDEP (with enclosures)