



Florida Department of Environmental Regulation

Central District • 3319 Maguire Boulevard, Suite 232 • Orlando, Florida 32803-3767

Lawton Chiles, Governor

Carol M. Browner, Secretary

August 5, 1991

Honorable Glen Charles Fiorello, Chairman
Marion County Commission
601 Southeast 25th Avenue
Ocala, Florida 32671

OCD-SW-91-0337

Marion County - SW
Baseline Landfill
Revision of Amended Consent Order
OGC Case Number 87-0445 _____

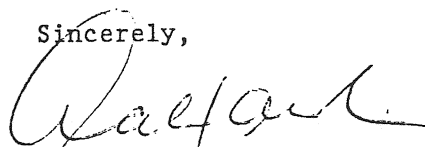
Dear Chairman Fiorello:

This is in response to a letter dated July 22, 1991 from Jones, Edmunds & Associates, Inc. on behalf of Marion County, which requested a revision to Paragraph 25 of the subject Consent Order. The request would continue to allow disposal of Class III waste only in the North Cell of Baseline Landfill to bring the landfill to final grade prior to installing the final cover.

The department is granting this request with the understanding that the additional Class III waste will not have any adverse impact on the closure design or the closure schedule for the North Cell. The closure schedule for the North Cell is stated in Paragraph 26 of the subject Consent Order and remains in force.

If you have any questions, please contact Mr. Richard B. Tedder, P.E. at 407/894-7555.

Sincerely,



A. Alexander, P.E.,
District Director



AA/rtw

cc: Earl Blankenship; Marion County Board of County Commissioners ✓
Steven J. Laux, P.E.; Jones, Edmunds & Associates, Inc.

Commissioners, 601 Southeast 25th Avenue, Ocala, Florida 32671. Marion County is a person within the meaning of Sections 403.031(5) and 403.703(3), Florida Statutes.

3. Respondent has owned a Class I landfill known as Baseline Landfill (the "Landfill") since 1977. The Baseline Landfill is located on Baseline Road (C-35) approximately one mile south of C-464 at Latitude 29⁰07'30" North and Longitude 82⁰03'45" West, in Sections 1 and 12, Township 16 South, Range 22 East in Marion County, Florida north of the Town of Belleview. On or about April 15, 1982 Respondent and Urban Waste Disposal, Inc., a New York corporation ("Urban") entered into a contract, which, as subsequently modified, related, "inter alia", to operation of the Landfill (the "Urban Contract"). The Urban Contract was terminated by Respondent in August of 1986. On March 12, 1987 Respondent regained operation of the Landfill. Urban operated the Landfill from on or about April 15, 1982 through March 12, 1987. Beginning on March 16, 1987, Western Waste Industries, Inc., a California corporation ("Western"), commenced operating the Landfill pursuant to a contract with Respondent. Western operated the Landfill from March 16, 1987 to December 15, 1987. On December 16, 1987 Marion County resumed operations with County staff.

4. On September 16, 1985, Respondent was issued a permit number SC42-094401 authorizing construction of new cells at and continued operations of the Landfill. Although that permit expired on August 1, 1990 due to changes in the Florida Administrative Code Chapter 17-7, effective December 10, 1985, it was required to be resubmitted to the Department, in accordance with Florida Administrative Code Rule

<u>Well Number</u>	<u>Date Sampled</u>	<u>Parameter in Violation</u>	<u>Sample Result</u>	<u>Maximum Contaminant Level (MCL)</u>			
				F.A.C. Rule			
MW-2	6-17-86	Chlorobenzene	3.	17-3.402(l) (a)-(f)			
	2-19-87	Chlorobenzene	2.73	n	"	n	
	6-17-86	1,1-dichloroethane	4.	n	M	n	
	2-19-87	1,1-dichloroethane	7.78	n	"	n	
	6-17-86	Ethylbenzene	6.	n	n	n	
	2-19-87	Ethylbenzene	1.71	n	n	"	
	6-17-86	1,2-dichloroethene	14.	n	"	n	
	2-19-87	1,2-dichloroethene	13.7	"	n	n	
	6-17-86	Dichlorobenzene	33.0	n	n	H	
	2-19-87	Dichlorobenzene	40.4	"	n	H	
	MW-5	6-17-86	Chlorobenzene	4.	"	M	"
		2-19-87	Chlorobenzene	2.2	n	n	"
MO-6	6-17-86	Dichlorobenzene	2.	M	"	n	
	2-19-87	Dichlorobenzene	3.3	M	n	"	

In addition to the violations cited above, the total purgeables found in each well are as follows (in ug/l):

<u>Well Number</u>	<u>Date Sampled</u>	<u>Total Purgeables</u>
MW-2	6-17-86	100.
	2-19-87	95.04
MO-3	6-17-86	71.
	2-19-87	64.9
MW-5	6-17-86	51.
	2-19-87	41.
MO-6	6-17-86	298.
	2-19-87	10.18

7. The parties met on several occasions in an attempt to clarify the issues in this case and reach a solution to the problems

12. On May 9, 1988, prior to construction completion of Cell III-A, the Respondent filed a Closure Application No. SF42-149083 for the North Cell, also known as the Urban and the Methane Cell, in conformance with the Original Consent Order. An update of the plan was submitted on May 18, 1988. The Department requested additional information in a letter dated June 7, 1988 which was responded to on November 22, 1988. On December 13, 1988 a phased closure plan was provided to the Department in order to distribute closure cost over more than one fiscal year due to the Respondents budgetary constraints. The parties then met on December 16, 1988 to discuss phased closure. A letter dated January 6, 1989 was filed with the Department to outline the meeting and to request the approval of a modification to the closure application to permit phased closure. The Department responded on February 3, 1989 and stated that the phased closure approach was not in compliance with the Original Consent Order and that the Original Consent Order could be modified in a manner mutually acceptable to the Department and the Respondent. On or near December 20, 1989, proposed milestone deadlines for implementation of the phased closure was submitted to the Department for use in Consent Order modification, accompanied by Respondent Resolution No. 89-R-382 which was adopted by the Respondent on December 19, 1989 at the request of the Department. The resolution was followed up by a letter dated May 5, 1990 to reiterate closure time periods.

13. The closure plan for the North Cell was not implemented upon completion of Landfill Cell III-A as required by the Original Consent Order as the closure permit issuance was held in abeyance pending

by an addendum on December 12, 1989. Requests for additional information were issued by the Department on January 5, 1990 and March 3, 1990. A meeting between the Department, Respondent, and the Respondent's engineer was conducted on January 24, 1990 to discuss additional information requirements. Response to the listed requests for additional information were submitted by the Respondent on February 2, 1990 and March 27, 1990. On June 22, 1990 the Respondent issued a Notice of Award for the construction of the Landfill Cell III-B. DER issued a permit to construct Cell III-B (Permit No. SC42-173589) on August 20, 1990. Notice to Proceed was issued to the Contractor, effective September 4, 1990.

18. Respondent requested and was granted an extension of the Permit SC42-094401 on July 27, 1990 from August 1, 1990 to September 16, 1990.

19. The parties agree that the amendments to the Original Consent Order contained herein are appropriate.

THEREFORE, having reached a resolution of the matter, pursuant to Florida Administrative Code Rule 17-103.110(3), Respondent and the Department mutually agree and it is

ORDERED:

20. Respondent shall operate the landfill in accordance with Florida Administrative Code rule 17-701.050(6), and in accordance with the operational plan, as such plan is approved by the Department. This shall include, but not be limited to, the following: 1) application of proper daily, intermediate, and final cover; 2) proper sloping; 3) proper compaction; 4) proper sludge disposal; 5) adequate vegetation; 6)

the DER written approval.

25. Upon utilization of the new Landfill Cell III-B for disposal of Solid Waste, Respondent shall stop disposing of all waste in the North Cell.

26. Respondent shall begin construction of Phase I of the closure plan within ninety (90) days after receipt of the Department closure permit. Closure shall then progress as follows.

Item	No. of Days
a. Phase I closure construction complete	Within 120 days after commencement of Phase I closure construction
b. Phase II closure construction commencement	Within 90 days after Respondent completes Phase I construction
c. Phase II closure construction complete	Within 90 days after commencement of Phase II closure construction
d. Phase III closure construction commencement	Within 90 days after Respondent completes Phase II construction
e. Phase III closure construction complete	Within 90 days after commencement of Phase III closure construction

A final closure survey, record drawings, and final closure report shall be submitted to the Department within sixty (60) days after completion of the Phase III closure construction.

27. Within 60 days of the effective date of this Amended Consent Order, Respondent shall submit proof of financial responsibility for closure and long term care of the North Cell. Proof of financial responsibility for closure of the North Cell shall consist of an official report for the issuance of revenue bonds for closure of the

fifteen (15) days of receipt by Respondent.

30. Respondent shall implement corrective actions at the Davis Landfill and the Newton Landfill as set forth in the document entitled "Corrective Actions for Ground Water Contamination Cases", attached hereto as Exhibit A, within the time frames set forth therein.

31. Should future ground water monitoring data at the Canal Landfill indicate the ground water is contaminated and a contamination assessment is required, upon notification by the Department, Respondent shall implement corrective actions at the Canal Landfill as set forth in the document entitled "Corrective Actions for Ground Water Contamination Cases", attached hereto as Exhibit A, within the time frames set forth therein.

32. For and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Consent Order, the Department hereby waives its right to seek judicial imposition of civil penalties concerning the issues involved in this Consent Order.

33. With regard to any determination made by the Department regarding Respondent's responses to the Corrective Actions made pursuant to this Consent Order, Respondent may file a Petition for Formal or Informal Administrative Hearing Proceeding, if Respondent objects to the Department's determination, pursuant to Section 120.57, Florida Statutes, and Chapters 17-103 and 28-5, Florida Administrative Code. The petition must conform with the requirements of Florida Administrative Code Rule 28-5.201, and must be received by the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 14 days after receipt of notice

the original Consent Order dated February 8, 1988.

The Consent 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 Regulation, Central Florida District Office, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767.

Persons whose substantial interests are affected by this Consent Order have a right to petition for an administrative hearing on the Consent Order. The Petition must contain the information set forth below and must be filed (received) in the Department's Office of General Counsel, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, 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 Section 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 Consent 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 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 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 28-5.207,

operations, subject to Paragraph 33. above.

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

39. The terms and conditions set forth in this Consent Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, Florida Statutes. Failure to comply with the terms of this Consent Order shall constitute a violation of Section 403.161(1)(b), Florida Statutes.

40. Respondent is fully aware that a violation of the terms of this Consent Order may subject Respondent to judicial imposition of damages, civil penalties of up to \$10,000 per offense, and criminal penalties.

41. Respondent shall allow all authorized representatives of the Department 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.

42. 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 this Consent Order.

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

44. All reports, plans, and data required by this Consent Order to be submitted to the Department should be sent to:

delay was or will be caused by circumstances beyond the reasonable control of the Respondent, and could not have been or can not be overcome by due diligence. Upon occurrence of the event, Respondent shall promptly notify the Department orally and shall, within seven (7) calendar days of oral notification to the Department, notify the Department in writing of the anticipated length and cause of delay, the measures taken or to be taken to prevent or minimize the delay, and the time table by which the 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 the Respondent, the time for performance hereunder shall be extended for a period equal to the delay resulting from such circumstances. Such agreement shall be confirmed by letter from the Department accepting or if necessary modifying the extension request. If the parties cannot agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of the Respondent, the Respondent shall have the burden of proving, in accordance with Paragraph 33. above, that the delay was or will be caused by circumstances beyond the reasonable control of the Respondent, and could not have been or can not be overcome by due diligence. The Respondent shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of the Respondent to comply with the notice requirements of this paragraph shall constitute a waiver of the Respondent's right to request an extension of the requirements of this Consent Order. Increased costs of performance of the terms of this Consent Order or changed economic circumstances shall not be considered circumstances

49. In the event of any conflict between and among the terms and conditions of the various permits, this Amended Consent Order, and any amendments thereto, the latest document controls.

50. If all of the requirements of this Amended Consent Order have not been fully satisfied, Respondent shall not sell or convey the above-described property without, at least 14 days prior to such sale or conveyance, (1) notifying the Department of such sale or conveyance, and (2) providing a copy of this Consent Order with all attachments to the new owner.

51. The provisions of this Consent Order shall apply to and be binding upon the parties, their officers, their directors, agents, servants, employees, successors, and assigns and all persons, firms and corporations acting under, through or for them and upon those persons, firms and corporations in active concert or participation with them.

(6) Describe geologic and hydrogeologic characteristics of the site which influence migration and transport of contaminants; and

(7) Provide a site history including description of facility operations, as applicable.

B. The CAP shall specify tasks, which are necessary to achieve the objectives described in subparagraph 1.A above. The CAP shall include a reasonable time schedule for completing each task. The tasks may include, but are not limited to the following:

(1) Use of piezometers or wells to determine the horizontal and vertical directions of the ground water flow;

(2) Use of electromagnetic conductivity (EM) and other geophysical methods or vapor analyzers to trace extent of ground water contamination;

(3) Use of fracture trace analysis to discover linear zones in which discrete flow could take place;

(4) Use of well points or monitoring wells to sample ground water in affected areas and to determine the vertical and horizontal extent of the ground water plume;

(5) Sampling of public and private wells;

(6) Sampling of surface water and sediments;

(7) Sampling of air for airborne contaminants;

(8) Analysis of soils and drum and tank residues for hazardous waste determination and contaminant characterization.

(9) Use of geophysical equipment such as vapor analyzers, magnetometers, ground penetrating radar, or metal detectors to detect buried objects;

(8) Details of any other assessment methodology proposed for the site;

(9) A description of any survey to identify and sample public or private wells which are or may be affected by the contaminant plume;

(10) A description of the regional geology and hydrogeology of the area surrounding the site;

(11) A description of site features (both natural and man-made) pertinent to the assessment;

(12) A description of methods and equipment to be used to determine the site specific geology and hydrogeology; and

(13) Details, including disposal or treatment methods, of any immediate remedial actions proposed for the site such as product recovery, soil removal or treatment.

D. The CAP shall contain as a separate document a Quality Assurance Project Plan ("QAPP"), which shall apply to all sampling and analysis required by this Consent Order. The QAPP shall be prepared in accordance with the requirements set forth in the document titled "DER Guidelines for Preparing Quality Assurance Plans, DER-QA-001/90, August 20, 1990." A copy of the document is available upon request from the Department. A QAPP is required for all persons collecting or analyzing samples. The Department reserves the right to reject all results submitted by Respondent prior to QAPP approval, or those results which are not obtained in accordance with the Department approved QAPP.

A. Draft specific modifications to the CAP and notify Respondent in writing that the Department's modification shall be incorporated in the CAP and/or QAPP; or

B. Notify Respondent in writing that Respondent has failed to comply with paragraph four above, 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.

6. Once a CAP has been approved by the Department, it shall become effective and made a part of this Order, and shall be implemented within ten (10) days of the Department's written notification to Respondent that the CAP has been approved. The CAP shall incorporate all required modifications to the CAP identified by the Department. Within ten (10) working days of completion of the CAP tasks, Respondent shall provide written notice to the Department that the CAP tasks have been completed.

7. Within forty-five (45) days of completion of the tasks in the CAP, Respondent shall submit a written Contamination Assessment Report ("CAR") to the Department. The CAR shall:

A. Summarize all tasks which were implemented pursuant to the CAP; and

B. Specify results and conclusions regarding the Contamination Assessment objectives outlined in subparagraph 1.A.

8. The Department shall review the CAR and determine whether it has adequately met the objectives specified in subparagraph 1.A.

13. or submit the Remedial Action Plan (RAP) as set forth in paragraph 18.

10. After completion and Department approval of the CAR, the Respondent shall prepare and submit to the Department a Risk Assessment/Justification (RAJ) if the Department requires the task, or if the Respondent wishes to develop less stringent SRLs other than those determined by the Department, or if the Respondent intends to justify a no-action proposal for the site. The RAJ which includes a risk assessment and a detailed justification of any alternative SRLs or no-action proposal shall be submitted within one hundred twenty (120) days from receipt of the Department's written approval of the CAR and determination of the SRLs for the site, or within one hundred twenty (120) days of the Department's written approval of the CAR and notice that a RAJ is required, or within one hundred twenty (120) days of the Department's written approval of the CAR. Unless otherwise approved by the Department, the subject document shall address the following task elements, divided into the following five major headings:

A. Exposure Assessment - The purpose of the Exposure Assessment is to identify routes by which receptors may be exposed to contaminants and to determine contaminant levels to which receptors may be exposed. The Exposure Assessment should:

- (1) Identify the contaminants found at the site and their concentrations as well as their extent and locations;
- (2) Identify possible transport pathways;
- (3) Identify potential exposure routes;

Contaminant Levels (RMCLs), Maximum Contaminant Levels, Average Daily Intake values (ADIs), Unit Cancer Risk values (UCRs), organoleptic threshold levels, and other relevant criteria as applicable.

(2) Non-potable domestic water usage exposure route - develop criteria for dermal contact, inhalation of vapors and mists, ingestion of food crops irrigated with such water, lawn watering, ingestion by pets and livestock, and other related exposure.

(3) Soil exposure route - develop criteria for ingestion, dermal contact, inhalation, ingestion by humans or animals of food crops grown in contaminated soils.

(4) Non-potable surface water exposure - develop criteria for prevention of adverse effects on human health (e.g. dermal contact • effects on humans utilizing the resource for recreational purposes) or the environment (e.g. toxic effects of the contaminants on aquatic or marine biota, bio-accumulative effects in the food chain, other adverse effects that may affect the designated use of the resource as well as the associated biota).

(5) Air exposure route - develop criteria for exposure to the contaminants in their unaffected state.

C. Risk Characterization - The purpose of the Risk Characterization is to utilize the results of the Exposure Assessment and the Toxicity Assessment to characterize cumulative risks to the affected population and the environment from contaminants found at the site. Based on contaminant levels presently found at the site, a risk and impact evaluation will be performed which considers, but is not limited to:

will migrate to and substantially affect a public or private source of potable water;

(2) Potential for further degradation of the affected aquifer or degradation of other connected aquifers;

(3) The technical feasibility of achieving the SRLs based on a review of reasonably available technology;

(4) Individual site characteristics, including natural rehabilitative processes; and

(5) The results of the risk assessment.

Applicable contaminant transport models must be employed to document that human health and environment risks from alternative and less stringent SRLs are acceptable.

11. The Department shall review the Risk Assessment/Justification document and determine whether it has adequately addressed the risk assessment task elements. The Department shall review the justification section and determine whether the Department approves or disapproves the alternative SRLs or the no-action proposal.

12. In the event that additional information is necessary to evaluate any portion of the Risk Assessment/Justification document, the Department shall make a written request and Respondent shall provide all requested information within 30 days of receipt of said request. If the Department does not approve the no-action proposal or the alternative SRLs, the Respondent shall use the SRLs as determined by the Department. If the Department and Respondent agree to the remediation levels, either the SRLs determined by the Department or the alternative SRLs, the Respondent shall implement

(4) operation and maintenance costs;
(5) operation and maintenance requirements;
(6) reliability;
(7) feasibility;
(8) time required to achieve cleanup; and
(9) potential legal barriers to implementation of any
of the alternatives;

(D) Identify the need for and conduct pilot tests or bench tests to evaluate alternatives, if necessary;

(E) Select the most appropriate remedial alternative;

(F) Develop soil cleanup criteria such that the contaminated soils will not produce a leachate which contains contaminants in excess of the SRLs or alternative SRLs (if approved).

14. Within forty-five (45) days of completing the FS, Respondent shall submit the FS Report to the Department. The FS Report shall:

A. Summarize all FS task results; and

B. Propose a conceptual remedial action plan based on the selection process carried out in the FS.

15. The Department shall review the FS Report for adequacy and shall determine whether the Department agrees with the proposed remedial action. In the event that additional information is necessary to evaluate the FS Report, the Department shall make a written request and Respondent shall provide all requested information within thirty (30) days from receipt of said request.

alternative based on the following criteria:

- a. long and short terra 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. reliability;
- e. feasibility; and
- f. costs.

(3) Soil cleanup criteria such that the contaminated soils will not produce a leachate which contains contaminants in excess of State Water Quality Standards or minimum criteria established in Florida Administrative Code Chapter 17-3. Subparagraph A requirements can be omitted if a FS was required and approved by the Department.

B. Design and construction details and specifications for the remedial alternative selected;

C. Operational details of the remedial action including the disposition of any effluent, expected contaminant concentrations in the effluent, an effluent sampling schedule if treated ground water is being discharged to ground water or to surface waters, and the expected concentrations and quantities of any contaminants discharged into the air as a result of remedial action;

D. A separate QAPP document;

E. Details of the treatment or disposition of any contaminated soils or sediments;

the RAP, the Department, at its option, may choose to either:

A. Draft specific modifications to the RAP and notify the Respondent in writing that the Department's modifications shall be incorporated in the RAP; or

B. Notify the Respondent that Respondent has failed to comply with the paragraph 21 above, 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.

23. Once a RAP has been approved by the Department, it shall become effective and made a part of this Consent Order and shall be implemented within thirty (30) days from receipt of the Department's notification to the Respondent that the RAP has been approved. The RAP shall incorporate all required modifications to the RAP identified by the Department.

24. Following termination of remedial action (cleanup of the contaminated area to the SRLs or the approved alternative SRLs), designated monitoring wells shall be sampled on a schedule determined by the Department.

25. Following completion of the remedial action and post-remedial action monitoring, the Respondent shall submit a Site Rehabilitation Completion Report (SRCR) to the Department for approval. The SRCR shall be signed and sealed by a registered Professional Engineer in accordance with Chapter 471, F.S., unless "no further action" or "monitoring-only" was proposed and was approved by the Department. The SRCR shall contain a demonstration.

Respondent and the Department as soon as the data are available.

31. The Respondent Is required to comply with all applicable local, state and federal regulations and to obtain any necessary approvals from local, state and federal authorities in carrying out these corrective actions.

32. If any event occurs which causes delay or the reasonable likelihood of delay in the achievement of the requirements of these Corrective Actions, Respondent shall have the burden of proving that the delay was or will be caused by circumstances beyond the reasonable control of Respondent, and could not have been or can not be overcome by due diligence. Upon occurrence of the event Respondent shall promptly notify the Department orally and shall, within seven (7) calendar days, notify the Department in writing of the anticipated length and cause of delay, the measures taken or to be taken to prevent or minimize the delay, and the time table 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 delay resulting from such circumstances. Such agreement shall be confirmed by letter from the Department accepting or if necessary modifying the extension request. Respondent shall adopt all reasonable measures necessary to avoid or minimize delay. Failure of Respondent to comply with the notice requirements of this paragraph shall constitute a waiver of Respondent's right to request an extension of time to complete the requirements of these Corrective Actions. Increased costs of performance of any of the