

# Georgia Department of Natural Resources

2 Martin Luther King, Jr. Dr., S.E., Suite 1462 East, Atlanta, Georgia 30334

Mark Williams, Commissioner  
Environmental Protection Division  
F. Allen Barnes, Director  
Land Protection Branch  
Mark Smith, Branch Chief

## **Reply To:**

Response and Remediation Program  
2 Martin Luther King, Jr. Drive, S.E.  
Suite 1462, East Tower  
Atlanta, Georgia 30334-9000  
Office 404/657-8600 Fax 404-657-0807

June 30, 2011

# **COPY**

## **VIA E-MAIL AND REGULAR MAIL**

Davidson-Kennedy Company  
c/o Mr. Joseph R. Ruben  
800 Industrial Park Drive  
Marietta, Georgia 30062

Re: Voluntary Investigation and Remediation Plan and Application, May 13, 2011  
Davidson-Kennedy Company Property, HSI Site No. 10866  
1195 Victory Drive, Atlanta, Fulton County, Georgia  
Tax Parcel 14-0121-0007-002-4

Dear Mr. Ruben:

The Georgia Environmental Protection Division (EPD) has reviewed the May 2011, Amended Voluntary Investigation and Remediation Plan (VIRP) application submitted pursuant to the Georgia Voluntary Remediation Program Act (the Act). We have also received your June 29, 2011 letter, which specifies the currently proposed remedial alternative. The VIRP was submitted in lieu of a compliance status report (CSR) required pursuant to the Georgia Rules for Hazardous Site Response (the Rules) for the above referenced property. EPD is approving your VIRP, which specifies corrective action consisting of the following:

- Evaluation of potential ecological receptors by conducting a preliminary risk evaluation (PRE);
- Excavation and disposal of soil exceeding the applicable risk reduction standards (RRS); and
- Designation of a point of exposure and appropriate fate and transport modeling of impacted groundwater.

Therefore, EPD is accepting Davidson-Kennedy Company as a participant as defined in the Voluntary Remediation Program Act for the following qualifying property provided Davidson-Kennedy Company implements the VIRP in compliance with the following schedule.

## **Qualifying property:**

1195 Victory Drive  
Atlanta, Fulton County, Georgia  
Tax Parcel 14-0121-0007-002-4

Within six months of detecting regulated substance(s) on a non-qualifying property, the participant must apply to EPD to include the affected property as a qualifying property under the Act or notify EPD the non-qualifying property is not included under the Act.

**Schedule:**

- Semiannual progress reports are to be submitted to EPD. Each progress report must describe all actions taken since the last submittal, and include certification by the professional engineer/geologist specified in the VIRP along with a monthly summary of hours invoiced and description of services provided since the last submittal.
  - December 30<sup>th</sup> and June 30<sup>th</sup> through December 30<sup>th</sup>, 2015.

In addition to the information required above, the following must be included in the specific progress reports discussed below.

- June 30<sup>th</sup>, 2012 semiannual progress report must demonstrate complete horizontal delineation on the qualifying property:
  - June 30<sup>th</sup>, 2013 semiannual progress report must demonstrate complete horizontal delineation of constituents of concern on all impacted properties; and,
  - December 30<sup>th</sup>, 2013 semiannual progress report must demonstrate complete horizontal and vertical delineation, finalize the remediation plan and provide a cost estimate for implementation of remediation and associated continuing actions. EPD recommends that the participant finalize approval of cleanup standards for all regulated substance prior to this submittal.
- Compliance status report including certifications:
    - June 30<sup>th</sup>, 2016

**Conditions:**

1. EPD requires the submittal of a cost estimate for full implementation of the VIRP through CSR submittal and a financial assurance instrument in that amount by no later than August 30, 2011. Model financial assurance instruments can be located at [http://www.gaepd.org/Files\\_PDF/forms/hwb/HSIModel.pdf](http://www.gaepd.org/Files_PDF/forms/hwb/HSIModel.pdf).
2. Davidson-Kennedy Company must address EPD's VIRP comment letter dated June 30, 2011 and any other comments addressing the investigation and remediation pursuant to the Act to the satisfaction of the Director that it is consistent with the provisions, purposes, standards and policies of the Act.
3. Within ninety (90) days of Davidson-Kennedy Company notice to withdraw from the Voluntary Remediation Program or termination by the Director pursuant to §12-8-107(d) of the Act, Davidson-Kennedy Company must submit a compliance status

report that complies with the requirements of the Hazardous Site Response Act and associated Rules for Hazardous Site Response.

4. Davidson-Kennedy Company must pay all outstanding fees within sixty (60) days of receipt of an invoice for any costs to the division in reviewing the application or subsequent document that exceeds the initial application fee.
5. Because Davidson-Kennedy Company is performing corrective action at the qualifying property in accordance with an approved voluntary remediation plan, EPD is hereby reclassifying it from Class II to Class V and designating it as needing corrective action as provided for in §12-8-107(b) of the Act.

Within 45 days of this letter, you are required to file an affidavit stating that your property has been listed on the state's hazardous site inventory and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. This affidavit is to be filed with the clerk of the Superior Court of Fulton County and recorded in the clerk's deed records pursuant to O.C.G.A. § 44-2-20.

Davidson-Kennedy Company must also place the following notice in any deed, mortgage, deed to secure debt, lease, rental agreement or other instrument given or caused to be given by the property owner which creates an interest in or grants a use of the property:

"This property has been listed on the state's hazardous site inventory and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. Contact the property owner or the Georgia Environmental Protection Division for further information concerning this property. This notice is provided in compliance with the Georgia Hazardous Site Response Act and the Voluntary Remediation Program Act."

Within 30 days of recording the affidavit, please send a copy of the receipt of the recorded affidavit to the Response and Remediation Program, Georgia Environmental Protection Division, 2 Martin Luther King Jr. Drive, SE, Suite 1462, Atlanta, GA 30334.

EPD requires that Davidson-Kennedy Company and the professional engineer/geologist specified in the VIRP oversee the implementation of the VIRP in accordance with the provisions, purposes, standards and policies of the Act. EPD may, at its sole discretion, review and comment on documents submitted by Davidson-Kennedy Company. However, failure of EPD to respond to a submittal within any timeframe does not relieve Davidson-Kennedy Company from complying with the specified schedule and the provisions, purposes, standards and policies of the Act. Should Davidson-Kennedy Company fail to comply with the above schedule, EPD may terminate enrollment of the participant and the qualifying property from the voluntary remediation program.

EPD's approval of the VIRP extends only to those technical aspects of the document that expressly require EPD approval under applicable rules and statutes. This approval is not an endorsement by EPD that it accepts as conclusive any representations made in the document. Nor does EPD guarantee or warrant that the document is free of errors or omissions. EPD may later withdraw approval of this document, in whole or in part, if EPD determines that withdrawal is necessary to ensure compliance with the applicable rules and statutes.

If you have any questions, please contact John Maddox at (404) 657-8600.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Smith", written in a cursive style.

Mark Smith, Chief  
Land Protection Branch

c: William H. Lucas, Peachtree Environmental, Inc.

File: HSI# 10866

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