

**Land Protection Branch**

2 Martin Luther King, Jr. Drive  
Suite 1054, East Tower  
Atlanta, Georgia 30334  
404-657-8600

April 3, 2018

**VIA EMAIL AND REGULAR MAIL**

Ashland LLC  
c/o Ms. Chrissy Piechoski  
500 Hercules Road  
Wilmington, Delaware 19808

Subject: VRP Semi-Annual Progress Report # 10 – June 28, 2017  
VRP Semi-Annual Progress Report #11 – December 28, 2017  
Tara Shopping Center, HSI Site No. 10798  
8564 Tara Boulevard, Jonesboro, Georgia (Clayton County)  
Tax Parcel ID 13242D B001

Dear Ms. Piechoski:

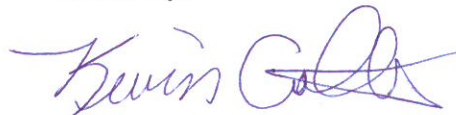
The Georgia Environmental Protection Division (EPD) has received the above referenced documents which have been submitted for the Tara Shopping Center site in accordance with the Voluntary Remediation Program Act (the Act). After completing a review of the above referenced documents, EPD has prepared the following comments:

1. EPD has received the Notice of Intent to Convey Property, dated November 30, 2017, and the first Annual Inspection Report, dated November 30, 2017, which were submitted by representatives of Tara Retail Holdings LLC in accordance with the Rules. Please continue to ensure that applicable groundwater use restrictions and notification/inspection requirements are communicated to any potential new owners of the property.
2. EPD concurs with the decision to move groundwater sampling events to April/October to more closely align with the June/December reporting cycle.
3. EPD acknowledges that access was denied to the Hoops and Fitness property, and consequently monitoring wells MW-15C and MW-24C were not sampled during the December 2017 sampling event. Because these wells represent the bedrock monitoring points closest to the point of exposure (the creek), they are critical in determining whether the in-stream impacts are the result of groundwater discharge to the stream channel or from some other source, transported through the storm drain pipe that discharges to the creek. Please continue your efforts to gain access to the Hoops and Fitness property so that the additional wells can be sampled.
4. As discussed in our meeting, the 5-year target for completing the corrective action in the VRP program has passed. EPD is open to extending the compliance timeframe for the site property beyond June 2017 by the development of a VRP Consent Order, which would allow for the additional time to complete the monitoring activities and planned

remedial strategy for the site property. A copy of EPD's VRP Extension Consent Order template is enclosed with this letter. Please continue with the groundwater monitoring schedule outlined in the November 2016 Corrective Action Plan, followed by the submittal of a VRP Compliance Status Report.

Please continue to submit Semi-Annual VRP Progress Reports as described in the VRP. EPD anticipates receipt of the next Semi-Annual VRP Progress Report by June 28, 2018 and a Compliance Status Report by September 30, 2019. If you have any questions, please contact David Hayes of the Response and Remediation Program at (404) 657-8672.

Sincerely,



Kevin Collins  
Unit Coordinator  
Response and Remediation Program

Encl: VRP Consent Order template  
c: Eric Nathan, Tara Retail Holdings, Inc. (via email)  
Michelle Stayrook, EHS Support (via email)

File: C016, 204-0132, VRP  
S:\RDRIVE\DDuBose\HSI Sites\10798 - Tara Shopping Center\2018\10th and 11<sup>th</sup> vrp progress report\_epd comments.docx

**STATE OF GEORGIA  
DEPARTMENT OF NATURAL RESOURCES  
ENVIRONMENTAL PROTECTION DIVISION**

**IN RE:**

<Company Name or individual(s)> )  
<Mailing address> ) Consent Order No. EPD-VRP-\_\_\_\_  
)  
**RESPONDENT** )

**CONSENT ORDER**

WHEREAS, <Company Name or individual(s)> (hereinafter the "Respondent") is the <current owner> of certain real property on which the Respondent <formerly operated a manufacturing facility>, located at <property address>, Georgia, comprised of approximately <#> acres and identified as Tax Parcel ID <parcel number> (hereinafter the "Property"); and

WHEREAS, the Property is part of the <Site Name> Site (HSI No. 10XXX) (hereinafter the "Site"), as defined in the Georgia Hazardous Site Response Act O.C.G.A. Section 12-8-90 et seq., as amended (hereinafter "HSR Act") and the Rules promulgated pursuant thereto (hereinafter "Rules"); and

WHEREAS, there has been a release of <list main regulated substances>, and other hazardous wastes or hazardous constituents, as defined in the Georgia Hazardous Waste Management Act, O.C.G.A. Section 12-8-60 et seq., as amended (hereinafter "HWM Act"), on the Site (hereinafter the "Release"); and

WHEREAS, the Director of the Environmental Protection Division, Department of Natural Resources, State of Georgia (hereinafter "Director" and "EPD" respectively) has determined that the Respondent is subject to the provisions of the HSR Act and Rules; and

WHEREAS, the Director determined that there has been a release exceeding a reportable quantity at the Property and subsequently listed the Site on the Hazardous Site Inventory on <date property listed on HSI>; and

WHEREAS, on <submittal date>, the Respondent submitted to EPD an application, including a Voluntary Investigation and Remediation Plan (hereinafter the "VIRP"), for enrollment of the Property into the Georgia Voluntary Remediation Program (hereinafter the "VRP"), established under the Georgia Voluntary Remediation Program Act, O.C.G.A. Section 12-8-100 et seq., as amended (hereinafter "VRP Act"); and

WHEREAS, on <approval date>, EPD approved the VIRP and associated schedule, which required that the VRP Compliance Status Report (hereinafter "CSR") be submitted by <CSR due date>; and

WHEREAS, the Respondent has committed to implement corrective action on the Site, including significant efforts to <briefly describe actions completed or objectives of corrective action>; and



WHEREAS, a policy of the VRP Act is to “. . . encourage the voluntary and *timely* investigation and remediation of properties. . .” [emphasis added]; and

WHEREAS, in order to accomplish that policy, the Director has established a standard and policy that VRP properties shall be in compliance with applicable cleanup standards within five (5) years of enrollment in the VRP; and

WHEREAS, the Respondent has proposed a revised schedule which extends the CSR submittal date and modifies the VRP reporting schedule for the Property.

NOW, THEREFORE, it is hereby ORDERED by the Director and CONSENTED to by the Respondent, as follows:

1. Upon execution of this Order, Respondent's <VIRP or other Corrective Action Plan document> dated <date> shall be modified in accordance with the Milestone Schedule included <as Attachment A or in document referenced above>. Under the VRP, and subject to any relevant modifications thereto, the Respondent must comply with the attached schedule and the following items for delineation and remediation of the Release, submission of a compliance status report, and submission of financial assurance as required by EPD under the VRP Act, subject to modifications and extensions granted in writing by EPD, such modifications and extensions not to be unreasonably denied:
  - a. Within sixty (60) days after the date of execution of this Order, the Respondent shall submit a cost estimate to EPD to complete the remaining VIRP work through submittal of the compliance status report. This estimate shall be based upon independent third party costs.
  - b. Within ninety (90) days after the date of execution of this Order, the Respondent shall provide EPD a financial assurance mechanism to reflect all costs identified in the cost estimate in Condition 1.a. The financial assurance mechanism shall be submitted and maintained on such forms as specified by EPD and shall be subject to EPD's acceptance. The written cost estimate shall be reviewed at least annually by the Respondent to ensure that the amount of the financial assurance mechanism is sufficient to ensure performance of the activities described in the VIRP. If the cost estimate indicates the amount of the financial assurance mechanism is not sufficient to ensure performance of the activities described in the VIRP, the Respondent shall notify EPD within thirty (30) days.
  - c. Within sixty (60) days after Respondent's receipt from EPD of an invoice for any costs to EPD in reviewing the VRP documents that exceed the initial VRP application fee, the Respondent shall reimburse EPD for such costs, provided the invoice includes a reasonably detailed itemization and justification for those costs.
2. The Respondent and one or more registered professional geologists or engineers shall be responsible to oversee the implementation of the VIRP in accordance with the provisions, purposes, standards, and policies of the VRP Act. EPD may, at its sole discretion, review and comment on documents submitted by the Respondent. However, failure of EPD to respond to a submittal within any timeframe does not relieve the Respondent from

complying with the specified schedule and the provisions, purposes standards and policies of the VRP Act and this Order.

3. This Order shall terminate if and as of the date the Director concurs under Section 12-8-107(e) of the VRP Act, as amended, with the Respondent's certification that the Site complies with applicable cleanup standards.
4. Enrollment of the Property in the VRP shall terminate (hereinafter the "Termination Date") sixty (60) days after either the Director or the Respondent provides written notification to the other party that enrollment of the Property in the VRP is being terminated, as provided in Section 12-8-107(d) of the VRP Act, as amended. As of the Termination Date, the Property and other properties affected by the Release shall be subject to the risk reduction standards promulgated at Section 391-3-19-.07 of the Rules, or such alternate standards as may be approved by the Director. The Respondent shall take those actions necessary to ensure compliance with these standards within a schedule approved by the Director, and shall submit periodic status reports in such format as required by the Director.
5. Unless otherwise provided in this Order, the following notice provisions shall apply:
  - a. Notifications, submissions or other communications required by this Order, shall be made in writing and addressed as follows:

As to the Respondent:

<Company Name or individual(s)>  
<Mailing address>

As to EPD:

Georgia Environmental Protection Division  
Response and Remediation Program  
Attn: Program Manager  
2 Martin Luther King Jr. Drive, SE, Suite 1054  
Atlanta, Georgia 30334

- b. Either party may, by written notice to the other party, change its designated representatives for receipt of notice or its notice address.
  - c. For purposes of the VRP deliverables referenced in Condition 1 hereof, EPD's receipt of a deliverable by the specified milestone due date via U.S. Mail, courier or hand delivery, or EPD's receipt of an electronic transmittal of a copy of the deliverable by the specified milestone due date confirming that the deliverable has been sent via U.S. Mail, courier or hand delivery, shall constitute timely submission of the deliverable under the VRP.
6. The Respondent shall seek access to any property not owned by the Respondent as may be necessary to comply with the terms of this Order. If unable to obtain such access, the



Respondent shall notify EPD and such notice shall be considered as notice that enrollment of the Property in the VRP is being terminated pursuant to Condition 4.

7. All documents or schedules required by the terms of this Order are, upon approval by the Director, incorporated into this Order. The Respondent shall implement all approved documents in accordance with the approved schedule. Except as provided in Condition 8, any noncompliance with such approved documents shall be termed noncompliance with this Order.
8. All actions required by this Order, or any approved document shall be conducted in accordance with the schedules prescribed therein, unless there is a delay caused by reasonably unforeseen circumstances beyond the control of the Respondent. Reasonably unforeseen circumstances beyond the control of the Respondent shall be limited to the following:
  - a. Failure to secure timely and necessary federal, state or local approvals or permits to conduct the work, provided that such approvals or permits have been timely and diligently sought;
  - b. Judicial or administrative action resulting from third-party litigation which affects the activities covered by this Order and is inconsistent with the terms and conditions of this Order;
  - c. Act of God, act of war, insurrection, civil disturbance, flood, fire, explosion, vandalism, contractor or supplier strikes, lockout or bankruptcy, or unanticipated breakage or accident to machinery, equipment, or lines of pipe despite diligent maintenance;
  - d. Other delay, as determined by EPD in its sole discretion.

The Respondent shall have the burden of proving to EPD that they were rendered unable, wholly or in part, by these delays to carry out their obligations. A delay caused by reasonably unforeseen circumstances beyond the control of the Respondent does not include financial inability to perform an obligation required by this Order.

9. The individual signing this Order for the Respondent is duly authorized to enter into and bind the Respondent to the terms of this Order.

For purposes of enforcement under any applicable State Law, this Order shall be construed as and shall have the same force and effect as a final Order of the Director pursuant to the HWM Act, as amended, the HSR Act, as amended, and the VRP Act, as amended.

The Respondent agrees that they are willfully and voluntarily taking the actions set out in this Order to settle and compromise the issues between the Respondent and EPD. The Respondent agrees that the actions to be taken by it and EPD as agreed in this Order are reasonable; are not in violation of any constitutional or statutory provisions; are not in excess of the statutory authority of the agency; are not made upon any unlawful procedure or affected by

any other area of law; and are not in any way arbitrary or capricious or a result of any abuse of discretion on the part of EPD.

Should Respondent be unable to complete the actions as set out in this Order, Respondent agrees that any actions taken or expenditures made by EPD to fulfill the terms set out in this Order shall be accorded a high level of deference, and that any legal action challenging these actions or expenditures will be limited to the judicial review of contested agency cases as provided in O.C.G.A. § 50-13-19.

By agreement of the parties, this Order shall be considered final and effective immediately, and the Respondent does hereby waive any right to appeal the terms and conditions of this Order.

This Consent Order shall be signed first by the Respondent and shall be deemed executed when signed by the Director of EPD.

It is so ORDERED, CONSENTED, AND AGREED to this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ . (to be filled in by the Director upon his signature)

**FOR THE RESPONDENT,**  
<Company Name or individual(s)>

**FOR THE ENVIRONMENTAL  
PROTECTION DIVISION**

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

\_\_\_\_\_  
Richard E. Dunn, Director  
Environmental Protection Division  
Department of Natural Resources  
State of Georgia

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