



Facts About...

Tyson Chicken, Inc.
(Voluntary Cleanup Program)

Site Location

The 68.22-acre Tyson Chicken, Inc. property is located at 9943 Old Ocean City Boulevard in a residential, agricultural and commercial area of Berlin, Worcester County, Maryland. The property is bordered to the north by the Route 50 and Route 113 interchange, to the south by residential and commercial properties, to the east by Route 113 and to the west by a railroad right-of-way and agricultural and woodland properties.

Site History

The southwestern portion of the property has been in use as a live poultry processing facility since the mid-1940s. Prior to the construction of the facility lagoons in the 1970s, the remainder of the property was utilized for agricultural purposes. The facilities consist of approximately thirteen buildings and a series of wastewater treatment lagoons that cover approximately 28 acres in the northern portion of the property. The wastewater treatment system formerly received process waste and continues to process storm water run off. The plant ceased operation in November 2003.

Environmental Investigations and Actions

Between 1992 and 2004, five underground storage tanks (two diesel, two heating oil and one gasoline) were taken out of service by abandonment in place or removal. In September 2004, twenty monitoring wells were installed at the property as part of an investigation conducted by the Oil Control Program of the Maryland Department of the Environment. Groundwater sampling indicated the presence of petroleum related compounds (benzene, isopropylbenzene and tert-butyl-alcohol) in several monitoring wells. In September 2005, supplemental groundwater and soil sampling was conducted at the request of the Voluntary Cleanup Program (VCP).

Current Status

On March 15, 2005, Tyson Foods, Inc. submitted a VCP application seeking a No Further Requirements Determination (NFRD) as a responsible person. On November 3, 2005, the VCP issued a NFRD for commercial or industrial use of the property.

Contact

For additional information, please contact the Land Restoration Program at (410) 537-3493.

Last Update: April 14, 2010



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MARYLAND DEPARTMENT OF THE ENVIRONMENT
1800 Washington Boulevard • Baltimore MD 21230
410-537-3000 • 1-800-633-6101

Robert L. Ehrlich, Jr.
Governor

Kendal P. Philbrick
Secretary

Michael S. Steele
Lt. Governor

November 3, 2005

Jonas A. Jacobson
Deputy Secretary

CERTIFIED MAIL

James H. Mardis, Group Director
Environmental Services
Tyson Foods, Inc.
2210 N. Oaklawn Drive (Mail Code ARO58120)
Springdale, Arkansas 72765-6999

Re: Voluntary Cleanup Program
No Further Requirements Determination
Tyson Chicken, Inc. Property
Berlin, Maryland 21811

Dear Mr. Mardis:

The Voluntary Cleanup Program of the Maryland Department of the Environment has completed a final review of the application packages submitted by Tyson Foods, Inc. for the 68.22-acre Tyson Chicken, Inc. property located at 9943 Old Ocean City Boulevard, Berlin, Worcester County, Maryland. The Department approves the application for participation in the Voluntary Cleanup Program and confirms the responsible person status of Tyson Foods, Inc. for the Tyson Chicken, Inc. property pursuant to Title 7, Subtitle 5 of the Environment Article, Annotated Code of Maryland (1996).

The Department has determined there are no further requirements related to the investigation or remediation of controlled hazardous substances or oil identified at the Tyson Chicken, Inc. property provided the property is used for unrestricted commercial (Tier 2A) or unrestricted industrial (Tier 3A) purposes in the future.

The enclosed No Further Requirements Determination (NFRD) is issued contingent upon it being recorded in the land records of Worcester County, Maryland within 30 days of receipt. Upon completion of the recording requirement, please submit written verification to my attention that the process has been completed and include a copy of the completed Owner's Certification and Statement of Intent found on Page 7 of 7 of the NFRD. If the NFRD is not recorded in the land records within the 30-day period, it shall become void in accordance with Section 7-506(i)(2) of the Environment Article. If the NFRD becomes void because of failure to record it in the local land records within the allotted 30-day period or it is lost, misplaced or otherwise not available for recording purposes, a replacement NFRD may be obtained from the Department upon request.

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Jimmy Mardis, Group Director
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In accordance with Maryland law, please note that issuance of the NFRD does not prevent the Department from: 1) taking action against any person to prevent or abate an imminent and substantial endangerment to the public health or the environment at the eligible property; 2) taking action against a responsible person concerning previously undiscovered contamination; or 3) requiring additional cleanup for future activities at the site that result in contamination by controlled hazardous substances or oil. This NFRD will not remain valid if use of the property is not consistent with unrestricted commercial or unrestricted industrial purposes or if the NFRD was obtained through fraud or material misrepresentation.

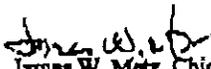
If the property owner wants to alter a record of determination in the land records for an eligible property, the owner shall obtain approval from the Department and submit a fee of \$2,000 in accordance with Section 7-506.1 of the Environment Article. In addition, the owner will be responsible for the cost of any necessary further remediation of the property to the appropriate standard.

As you may know, a \$2,000 fee is now payable to the Voluntary Cleanup Fund upon issuance of a NFRD conditioned on certain uses of the property or on the maintenance of certain conditions. Therefore, the Department will issue an invoice under separate cover regarding the \$2,000 fee for issuance of the enclosed NFRD for the Tyson Chicken, Inc. property.

It is important to the Department that you fully understand all the terms and conditions of the NFRD, particularly the property use restrictions and the requirement to forward a copy of the NFRD to a one-call system as defined in Section 12-101 of the Public Utility Companies Article. Accordingly, you are requested to complete the enclosed Certification and return it to my attention within ten (10) days of receipt of this letter.

Thank you for participating in Maryland's Voluntary Cleanup Program. We welcome your comments regarding the program and encourage you to provide feedback to the Department. If you have any questions or comments, please do not hesitate to call Barbara Brown, the project manager, or me at 410-537-3493.

Sincerely,


James W. Metz, Chief
Voluntary Cleanup/Brownfields Division

JWM/jm
Enclosures

cc: Mr. Richard L. Walls, Worcester County Environmental Programs
Mr. C. John Sullivan Jr., Maryland Department of Assessments and Taxation
Mr. Horacio Tablada
Mr. Saad Kuraei
Mr. James R. Carroll
Ms. Barbara Brown

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This No Further Requirements Determination does not:

1. Subject to the provisions of Section 7-505 of the Environment Article, Annotated Code of Maryland, prevent the Department from taking action against any person to prevent or abate an imminent or substantial endangerment to the public health or the environment at the above property;
2. Remain in effect if the No Further Requirements Determination is obtained through fraud or material misrepresentation;
3. Affect the authority of the Department to take any action against a responsible person concerning undiscovered contamination; or
4. Affect the authority of the Department to require additional cleanup for future activities at the site that result in contamination by hazardous substances or oil.

LAND USE CONTROLS

If this No Further Requirements Determination is conditioned on certain uses of the property or on the maintenance of certain conditions, the participant shall record this No Further Requirements Determination in the land records of the local jurisdiction within 30 days of receipt.

Check one:

- This No Further Requirements Determination is not conditioned on certain uses of the property or on the maintenance of certain conditions.
- This No Further Requirements Determination is conditioned on certain uses of the property (Tier 2A or 3A) or on the maintenance of certain conditions (Tier 1B, 2B or 3B).

Tier 1 (Residential): Planned use of the property that allows exposure and access by all populations including infant, children, elderly, and infirmed populations.

- **A (Unrestricted):** No land use controls are imposed on the property. Tier 1A properties typically include single and multi-family dwellings.

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- **B (Restricted):** One or more land use controls are imposed as a condition of residential use of the property. Tier 1B properties typically include hospitals and health care facilities, education facilities, day care facilities, playgrounds and other recreational areas.

Tier 2 (Commercial): Planned use of the property that allows exposure and access by the general public, workers, and other expected users, including customers, patrons, or visitors. Commercial purposes allow access to the property and duration consistent with a typical business day. Tier 2 properties typically include shopping centers, retail businesses, vehicle service stations, medical offices, hotels, office space, religious institutions, restaurants, and apartment buildings that have commercial use on the first floor.

- **A (Unrestricted):** No land use controls are imposed on the property for commercial use.
- **B (Restricted):** One or more land use controls are imposed as a condition of commercial use of the property.

Tier 3 (Industrial): Planned use of the property by workers over the age of 18, adult workers and construction workers, and other potential expected users. Industrial purposes allow access to the property at a frequency and duration consistent with a typical business day. Tier 3 properties typically include manufacturing facilities, machine facilities, metal working shops, oil refineries, chemical and other material plants.

- **A (Unrestricted):** No land use controls are imposed on the property for industrial use.
- **B (Restricted):** One or more land use controls are imposed as a condition for industrial use of the property.

Land Use Controls means any restriction or control that serves to protect human health and the environment by limiting use of or exposure to any portion of the property, including water resources. These controls may include:

- Engineering controls are remedial actions directed toward containing or controlling the migration of contaminants through the environment. These include, but are not limited to, stormwater conveyance systems, slurry walls, liner systems, caps, leachate collection systems, pump and treat systems, and groundwater recovery systems.
- Institutional controls are legal or administrative tools designed to prevent or reduce human exposure to remaining contamination and to prevent activities that may result in increased exposure to or spread of such contamination.

Tyson Chicken, Inc. Property, Page 3 of 7

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TRANSFER OF OWNERSHIP

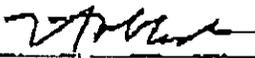
If ownership of the property or any portion thereof is transferred, the property owner shall notify the Department at least five (5) business days prior to the transfer. In addition, any successor in interest must submit a written certification to the attention of the Division Chief of the Voluntary Cleanup Program that the successor in interest has a copy of this No Further Requirements Determination, including the land use requirement for the property.

The owner of the property and any successors in interest in the property subject to this No Further Requirements Determination shall continue to be protected from liability in the event of any violation of the conditions placed on the use of this property, provided the owner of the property and any successors in interest did not cause or contribute to the violation.

This No Further Requirements Determination does not prevent the Department from taking action against any person who uses the property for any use other than the use specified herein.

If an owner of the property wants to change the use of the property to a new use that is consistent with the appropriate planning and zoning authority of the appropriate county or municipality, the owner is responsible for the cost of cleaning up the property to the appropriate standard as determined by the Department.

ANY OTHER USE OF THE PROPERTY OR FAILURE TO COMPLY WITH ANY THE LAND USE REQUIREMENT SPECIFIED HEREIN MAY RESULT IN THIS NO FURTHER REQUIREMENTS DETERMINATION BECOMING VOID.



Horacio Tablada, Director
Waste Management Administration

11/3/05

Date

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STATE OF MARYLAND, City OF Baltimore, TO WIT:

I HEREBY CERTIFY, that on this 3rd day of November, 2005 before me, the undersigned Notary Public of said State, personally appeared Horacio Tablada, who acknowledged himself to be the Director, Waste Management Administration, Maryland Department of the Environment, known to me to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained as the duly authorized Director of said Administration by signing his name as Director of said Administration.

WITNESS my hand and Notarial Seal.


Notary Public

My Commission Expires: May 1, 2007

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