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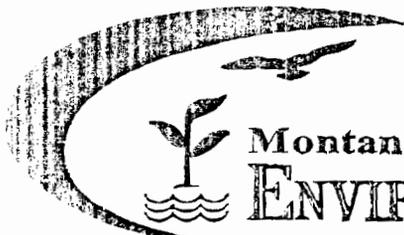
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Montana Department of  
**ENVIRONMENTAL QUALITY**

Brian Schweitzer, Governor

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January 19, 2006

David M. Smith  
Manager, Environmental Remediation  
Burlington Northern Santa Fe Railway Company  
139 Last Chance Gulch  
Helena, MT 59601

**RE: May 18, 2005 Complaint Alleging Historic Spill of Tar-like Substance along Abandoned Burlington Northern Santa Fe Railway Company Rail Siding near US Highway 191 in Lewistown, Fergus County, Montana. [CVID #9118]**

Dear Mr. Smith:

On May 20, 2005, the Enforcement Division (ENFD) of the Montana Department of Environmental Quality (DEQ) received an anonymous complaint alleging the presence of a tar-like substance (tar) located along a Burlington Northern Santa Fe Railway Company (BNSF) abandoned rail siding (siding) at the above-referenced location. The complaint alleged that during warm weather, the tar would soften and flow to and pool near buildings located on the north side of the siding. A review of property ownership records indicated that the siding and adjacent property was owned by BNSF.

In August 2005, BNSF indicated its intention to conduct assessment and remedial activities to address the complaint. Assessment and remedial activities were conducted by Envirocon, Inc. (Envirocon) between August and October 2005. On December 15, 2005, ENFD received the *Lewistown Tar Spill Remediation Report* (Report) prepared and submitted on behalf of BNSF by Envirocon.

Based on review of the information provided in the Report, it appears the majority of the tar-impacted soils have been sufficiently removed. Residual petroleum hydrocarbon-impacted soils exceeding ENFD's investigatory limit of 50 parts per million (ppm), total extractable hydrocarbon (TEH) remain at the base of the excavation. However, further laboratory analysis of the samples indicated the aliphatic and aromatic range petroleum hydrocarbons were below DEQ's Tier 1 Risk-Based Corrective Action (RBCA), Risk-Based Screening Levels (RBSLs) for commercial soils where the depth to ground water is between 10 and 20 feet from the point the soil samples were collected. The static water level in an "unused water well located within 60 feet of the Project Site" was reported by Envirocon to be measured at 17.5 feet.

In addition, no volatile petroleum hydrocarbon compounds were identified in the soil samples at concentrations exceeding the applicable RBSLs, and the vertical extent of petroleum hydrocarbon-impacted soils has been adequately defined. Envirocon collected soil samples to define the vertical extent of contamination at an approximate depth of 3.5 feet below ground surface.

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DEQ reserves the right to request that additional assessment or remedial activities be conducted should information become available to DEQ that indicates state waters were impacted by the spilled tar. DEQ's closing of this complaint file may not resolve claims of third parties who may be adversely impacted by the historic tar spill.

Please note that the soil samples collected on October 14, 2005 arrived at the laboratory on October 17, 2005 with a temperature of 13°C. The Environmental Protection Agency's (EPA) sample preservation protocols, recognized by DEQ, require soil samples to be preserved to a temperature of 4°C. EPA allows for a variance of 2°C. In the future, failure to properly preserve samples may result in ENFD determining the analytical data to be invalid and require resampling of the site.

On behalf of DEQ, I thank BNSF for its prompt response to initiate the assessment and remedial actions required to address the complaint. If you have any questions, please contact me at the telephone number listed below.

Sincerely,



Daniel R. Kenney  
Environmental Enforcement Specialist  
Enforcement Division  
(406) 444-1504; Fax (406) 444-1923  
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cc: Fergus County Sanitarian, 305 West Watson, Lewistown, MT 59457  
City Planner, City of Lewistown, 305 West Watson, Lewistown, MT 59457  
Dan McCaffery, Envirocon, Inc., 101 International Way, Missoula, MT 59808  
Don Bost, Bost Properties, 303 Bost Lane, Lewistown, MT 59457