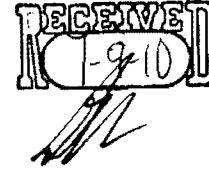


**STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION**



NOTICE OF VIOLATION

TO: Newtown Transload LLC
c/o Samuel Hurwitz, Esq. (Agent for Service)
Brenner, Saltzman, & Wallman
271 Whitney Avenue
New Haven, CT, 06511



NOV NO. WR SW 10 005

RE: Newtown Transload LLC
30 Hawleyville Road
Newtown, CT 06470

DATE: July 6, 2010

The purpose of this Notice is to inform you that personnel of the Department of Environmental Protection ("DEP") have made observations or otherwise obtained information indicating that a violation of law has occurred at the above referenced location.

1. On April 9, 2010, an inspection was conducted by the DEP Bureau of Materials Management and Compliance Assurance, Water Permitting and Enforcement Division. Based upon that inspection, it appears that you have:
 - a. Failed to register for the General Permit for the Discharge of Stormwater Associated with Industrial Activity ("the general permit"), issued October 1, 2002, modified July 15, 2003, reissued on October 1, 2007, and as subsequently reissued, pursuant to Section 22a-430b of the Connecticut General Statutes. *On April 26, 2010, DEP received a registration for the general permit from Newtown Transload LLC. On May 4, 2010, DEP sent a certificate of registration to Newtown Transload LLC.*
 - b. Failed to prepare, implement, and keep onsite a Pollution Prevention Plan in accordance with Section 5(b) of the general permit.
 - c. Failed to maintain good housekeeping of the facility in accordance with Section 5(b)(6)(C)(i) of the general permit.
 - d. Failed to provide adequate erosion controls in accordance with Section 5(b)(6)(C)(iv) of the general permit.
 - e. Failed to cover all dumpsters and roll off containers in accordance with Section 5(b)(6)(C)(vi) of the general permit.
 - f. Failed to provide chemical containment in accordance with Section 5(b)(6)(C)(vi) of the general permit.
 - g. Failed to conduct and maintain records of Comprehensive Site Compliance Evaluations and/ or of routine inspections in accordance with Section 5(b)(6)(D) and 5(b)(6)(C)(x) of the general permit, respectively.
 - h. Failed to complete monitoring requirements pursuant to Section 5(c) of the general permit.

- i. Discharged sediment to a wetland or a watercourse without a permit in violation of Section 22a-430 of the Connecticut General Statutes.
- j. Discharged stormwater with a potential to pollute in violation of Section 6(e) of the general permit.

Additional Comments:

1. Pursuant to 1.b. above, you must prepare, submit and implement a SWPPP.
2. Pursuant to 1.c. and 1.d., you must install adequate erosion controls and implement good housekeeping measures, such as, but not limited to, sweeping.
3. Pursuant to 1.h. above, before September 30, 2010, all stormwater outfalls must be sampled on an annual basis, **notwithstanding the requirements of Comment 8 below**. The results of such sampling must be submitted to the Department in accordance to the Section 5(d)(3) of the general permit.
4. Pursuant to 1.e. and 1.f. above, you must cover all dumpsters and roll-offs when not in use and provide coverage for all containers of 100 gallons or less, and provide adequate secondary containment for all chemical containers stored outside.
5. Pursuant to 1.g. above, you must develop and implement an inspection plan (as part of the SWPPP). Also, site inspections must be begun immediately and inspection records must be maintained on-site.
6. Pursuant to violation 1.i. above, you must hire a certified soil scientist to assess the deposition of sediment in the adjacent wetlands and watercourses. You must develop a plan, with a schedule, to remediate such impacts. Such Plan must be submitted for review and approval within 30 days of the date of issuance of this Notice. You may need State or Town permits to do any investigations in the wetlands and watercourses. Please contact Bob Gilmore (DEP Inland Water Resources) at 860-424-3867 to determine if a State permit is needed.
7. Pursuant to 1.j. above, you must sample all stormwater discharges for the following parameters: the parameters listed in Section 5(c)(1)(A)(i) of the general permit, Alkalinity, Hardness, Volatile Organics & Extractable Organics, PCBs, Cadmium, Chromium, Silver, Mercury, Selenium, and Arsenic. All sampling must be conducted in a manner consistent with 40 CFR Part 136. The results of this sampling shall be submitted to the Department within 45 days of the date of issuance of this Notice.

You should immediately correct the above violation(s) and address the item(s) listed under additional comments, and within thirty (30) days from the date of issuance of this Notice submit a Compliance Statement on a form prescribed by the Department (copy enclosed) describing the details of the corrective action(s)*, how the item(s) listed under additional comments have been addressed, and attach all applicable supporting documentation. **Such submittal should be sent to the contact person identified below in paragraph D with a copy of such submittal and supporting documentation directed to Michael Fedak of the Environmental Protection Agency ("the EPA") at the address given below in paragraph E.** Until the DEP has received such a statement, the DEP will presume you remain in violation. *If the violation(s) cannot be corrected within thirty (30) days, provide a schedule of compliance (that includes a timetable) on the enclosed Compliance Statement within thirty (30) days describing the actions you will take to correct the violation(s). Your actions in response to this notice, including submission of the attached Compliance Statement, may effect the DEP's decision whether or not to take formal enforcement action. An *NOV Closure or Acknowledgement Letter* shall not be issued without receipt of a certified compliance statement.

Enclose with your compliance statement a copy of the Stormwater Pollution Prevention Plan and \$500 Plan review fee mandated by Regulations of Connecticut State Agencies 22a-430-6. Such submittal should be sent to the contact person identified below in paragraph D. (Submittal of a copy of the Stormwater Pollution Prevention Plan to EPA is not required unless requested).

- A. Other violations may exist; legal obligations. This Notice does not necessarily specify all violations of Connecticut environmental law or violations of any other legal requirements which may exist at the aforementioned property. This Notice does not preclude the DEP or other state, local or federal agencies from commencing any enforcement action regarding any such violations. Your facility may be inspected again pursuant to law and without additional prior notice to determine compliance with state and any applicable federal law. It is your responsibility to comply with all legal requirements, whether or not the DEP notifies you of any violations or takes any enforcement action against you. Nothing in this Notice relieves you of other obligations under applicable federal, state and local law.
- B. Enforcement action. Civil penalties of up to \$25,000 may be assessed for each day of each violation under section 22a-438 of the Connecticut General Statutes. Notwithstanding the issuance of this Notice, the DEP may seek such penalties and may issue an order, seek an injunction, or take other legal action under Chapters 439 and 446k of the Connecticut General Statutes.
- C. No assurance by Commissioner. No provision of this Notice and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that actions you may take to address the violation(s) alleged herein will result in compliance.
- D. Staff contact. If you question any of the information contained in this Notice, you may contact

Donna M. Seresin
Bureau of Materials Management and Compliance Assurance
79 Elm Street, 2nd floor
Hartford, CT 06106
(860) 424-3018

- E. EPA contact:

Michael Fedak (OES 04-03)
U.S. Environmental Protection Agency
5 Post Office Square – Suite 100
Boston, MA 02109-3912



Donna M. Seresin
Water Permitting and Enforcement Division
Bureau of Materials Management and Compliance Assurance

COMPLIANCE STATEMENT

This Compliance Statement shall be signed by: (1) You (if an individual-the individual signs); (if a corporation or partnership-by a responsible corporate officer/general partner or a duly authorized representative of such person, as those terms are defined in section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies); or (if a municipality-chief elected official or principal executive officer) **and** (2) if different, by the individual responsible for actually preparing such statement, each of whom shall read and sign the certification regarding false statements on the Compliance Statement.

Within fifteen days of the date you become aware of a change in any information in the Compliance Statement, or that any information was inaccurate or misleading or that any relevant information was omitted, submit the correct or omitted information to the DEP and EPA staff contacts identified in the Notice of Violation.

Notice of Violation Date: July 6, 2010
Facility name: Newtown Transload LLC
Facility address: 30 Hawleyville Road
Newtown, CT
Attention: Samuel Hurwitz, Esq. (Newtown Transload-Agent for Service)

NOV WR SW 10 005

In accordance with the directions in the above-referenced Notice of Violation, I certify that the noted violations *and additional comments have been corrected in the following manner:

**Attach sheet(s) as needed
(Enclose supporting documentation demonstrating compliance)**

Certification of Accuracy

I certify that the information in this Compliance Statement and any attachments thereto are true, accurate and complete, and I understand that any false statement may be punishable as a criminal offense under Connecticut General Statutes sections 22a-6 and 53a-157.

Date

Signature

Telephone

(Type name and title)

Address

Date

Preparer's Signature,
if different from above

Telephone

(Type name and title)

Address

ADVICE TO RECIPIENTS OF NOTICES OF VIOLATION¹

Read the Notice of Violation. It tells you:

- * what activity you have conducted or what condition on your property is causing or may result in damage to the environment;
- * the environmental laws that you are not complying with;
- * in some cases, what action you need to take to address the environmental problem;
- * how quickly DEP expects you to take action; and
- * who to contact if you have a question or problem.

Do Not Cause Additional Problems: Make sure that you do not engage in activity that might result in further environmental harm.

Follow the Deadlines: If you can't meet the deadline(s) provided in the Notice of Violation, call the DEP contact person identified in the Notice of Violation. Explain why you can't meet the deadline(s). Staff will explore with you the feasibility of alternate deadlines.

Cooperate with DEP: Generally, DEP's first attempt to resolve the types of violations alleged in this case is through the issuance of a Notice of Violation. If you disregard this notice, it will be assumed you do not wish to cooperate and you should expect that DEP will take more formal enforcement action. This can include issuing an administrative order, and/or filing suit to obtain an injunction and penalties as provided by law. The most important thing to remember is to call DEP if you have any questions.

Call if you don't Understand: A DEP staff name and telephone number are given at the end of the Notice of Violation. Staff are there to try to answer your questions and work with you to resolve the environmental compliance issue. In some cases you may need to obtain the services of a professional consultant to plan and implement effective corrective measures. DEP staff can discuss with you the kind of professional help you may need to address the alleged violation cited in the notice.

¹ The Notice of Violation does not necessarily specify all environmental violations which may exist at your property regulated by the Department of Environmental Protection. Nothing in this Notice relieves you of other obligations under applicable federal, state and local law.

Memo

To: File

From: Donna M. Seresin

Date: 5/20/2010

Re: Newtown Transload LLC (NTL), 30 Hawleyville Road, Newtown

On April 9, 2010, I met with Ann Astarita (Newtown Conservation Official) at the town hall to follow up on a complaint of a discharge to wetlands and to determine if NTL is regulated by the General Permit for the Discharge of Stormwater Associated with Industrial Activity issued October 1, 2007, October 2, 2008, and reissued April 14, 2009 ("Stormwater General Permit"). Ms. Astarita provided me with photographs and background information regarding the site. Soon after, Bethany McWade (DEP-WEED) joined us at the town hall. We then proceeded to inspect the Hawleyville location.

When we arrived on site, Ms. McWade briefly spoke to Steve Goldblum (Strategic Disposal LLC- the entity bringing in solid waste to this site by truck) about the collapse of the roof and to inform him that we were there to inspect the site. Mark Vendetti, site manager for Strategic Disposal LLC, gave us a tour of the site. Upon entrance to the site, I observed inadequate erosion controls and lack of sweeping of roads to control the discharge of sediment. The site was filled to the edge of the wetlands with construction and demolition debris (consisting of dimensional lumber, shingles, rebar, paper products and other unidentified pieces of metal).

We walked the perimeter of the site to take photographs (see attached) and located a point source of stormwater; the discharge point which leads to the wetlands.

At the time of the inspection, there was sediment observed in and adjacent to wetlands. However, at the time of the inspection, a stormwater discharge to the wetlands or brook was not occurring due to a lack of precipitation on the day of inspection.

There were uncovered dumpsters and trash emanating from the railroad cars (which have gaping holes). Municipal Solid Waste (including paper products, dirty recyclables, decomposing food items) was observed in dumpsters and along and behind the railroad tracks. Behind the railroad tracks, I observed an erosion gully and a discharge pipe (draining stormwater runoff) leading into the wetlands.

During our walk around the site, I observed a full 55-gallon drum of chemical liquid stored outside on the pavement next to the dumpster, without secondary containment or a cover. Mr. Vendetti did not know what was in the drum. There were no markers on the drum.

At the end of the inspection, I informed Mr. Vendetti that based on the solid waste management activities at the site and the presence of several point sources, NTL, the operator of the transfer operation, must register for the Stormwater General Permit.

We proceeded to the Town Hall to review our findings with town officials George Benson, Robert Sibley, and Ann Astarita. Also, I asked if the Town would provide me some information regarding how long the solid waste activities had been taking place on site. Mr. Sibley provided me a copy of a Wetland Violation Notice and photograph which depicts transfer activities occurring as far back as June 4, 2007.

Subsequent to my inspection, I asked the Town of Newton to provide information regarding the locations of private wells in the vicinity of the referenced site.

Because Newton does not have a public water supply in the area, I was concerned about the potential for the stormwater discharges from this site to pollute groundwater resources, in addition to surface water resources. On April 28, 2010, Ms. Astarita provided me with a list of properties with private wells in the vicinity of this site. The closest private well is approximately 350 feet of areas of fill on the site. Consequently, I will require NTL sample its stormwater discharges to characterize its discharge quality.

Refer to the following pages for photographs taken during this site inspection.



Photo 1: Inadequate erosion and sediment controls & management of runoff 4-9-10



Photo 2: Sediment leading into wetlands 4-9-10

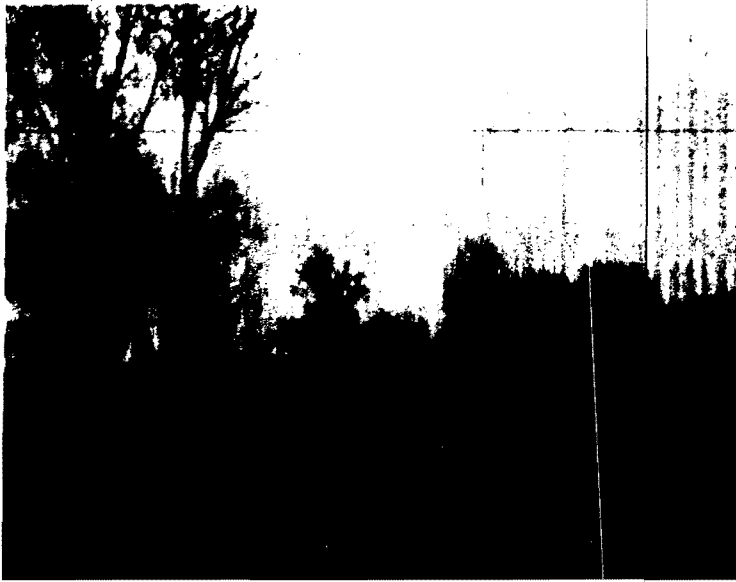


Photo 3: Poor housekeeping practices 4-9-10

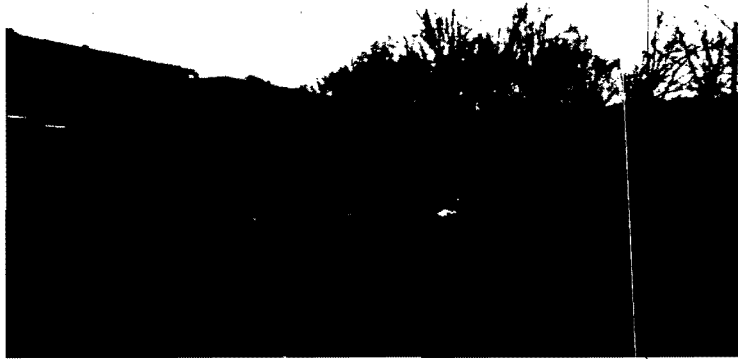


Photo 4: Inadequate erosion controls and poor housekeeping practices 4-9-10



Photo 5: Erosion gully behind railroad tracks, leading to wetlands 4-9-10

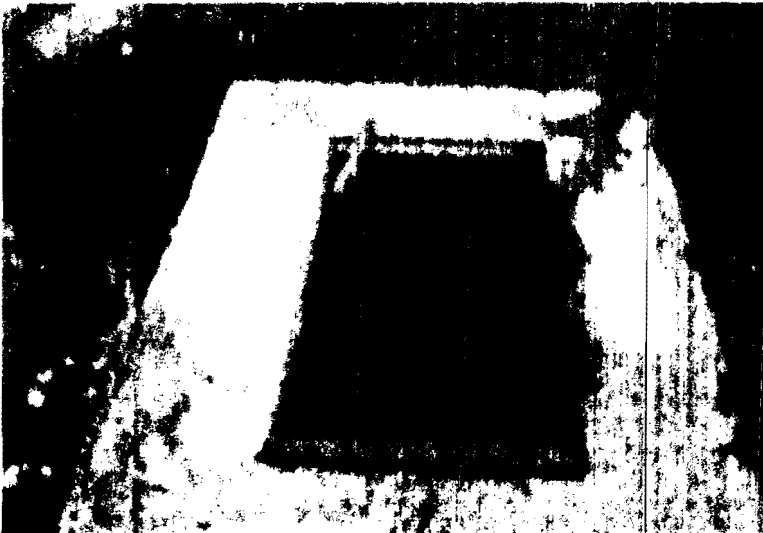


Photo 8: Catch basin which discharges to wetlands 4-9-10

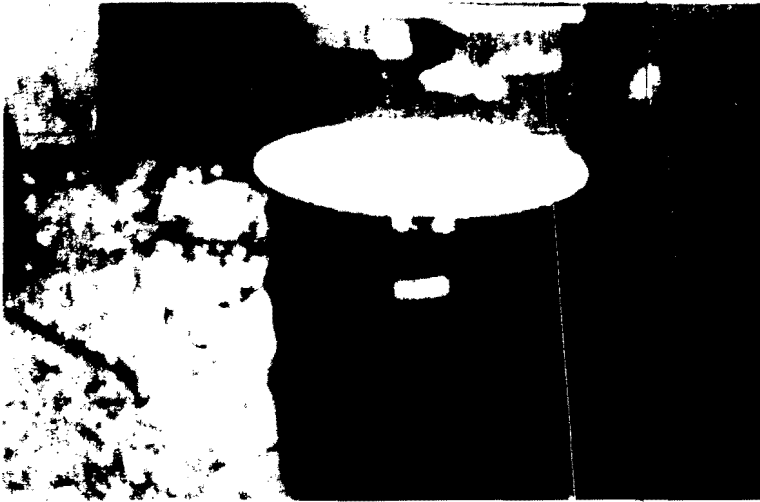


Photo 7: Unknown chemicals stored outside without containment 4-9-10