

Interoffice

MEMORANDUM

**DEPARTMENT OF ENERGY AND ENVIRONMENTAL
PROTECTION**

To: Frank P. Gagliardo, Supervising Environmental Analyst
Waste Engineering & Enforcement Division
Bureau of Materials Management & Compliance Assurance

From: Stan Gormley, Environmental Analyst - III
Waste Engineering & Enforcement Division
Bureau of Materials Management & Compliance Assurance

Subject: September 30, 2011 Inspection of the Housatonic Rail Road Company, Inc.'s & Newtown Transload, LLC's solid waste facility located at 30 Hawleyville Road, Newtown, Connecticut

Date: October 11, 2011 Revised: October 13, 2011

On September 30, 2011, William Sigmund, Environmental Analyst – III and I inspected the Housatonic Rail Road Company, Inc.'s & Newtown Transload, LLC's existing solid waste facility located at 30 Hawleyville Road (A.K.A. Route 25), Newtown, Connecticut (the "site").

The purpose of my visit was to evaluate the facilities compliance with the State's solid waste management laws and regulations. On-site we met with Michael Wallinger who was operating a Caterpillar 966E loader. After the customary pleasantries, Mr. Wallinger asked that we "sign-in" and we followed him to an office trailer on-site. Inside, he spoke to a woman (Carol - ?) from "Shepaug" asking her where the "sign-in sheet" was located and was directed to a clipboard. We indicated our identity, employer, today's date and our arrival time on the sheet. Copies of our state issued identification cards were also made for their records. I noticed several other representatives from Water Permitting and Enforcement Division along with Waste Engineering and Enforcement Division staff on the sheets. When asked, Mr. Wallinger stated he had no business cards. Mr. Wallinger accompanied us on the site inspection only leaving for short intervals of time. On a couple of those occasions, he was noted speaking to someone on a cell phone. Mr. Wallinger indicated that a representative from HRP Associates, Inc. was on-site earlier in the day.

BACKGROUND

Housatonic Rail Road Company, Incorporated (HRRC) has contracted with Newtown Transload, LLC (NT) to operate the facility. According to a business inquiry of the Secretary of State (SOS), NT was organized on September 11, 2008 and has listed their business address as 30 Hawleyville Road, Newtown, CT with Samuel Hurwitz, Esq. as the "Agent". The existing solid waste facility (i.e., transfer station), is not permitted in accordance with §22a-208a of the Connecticut General Statutes. The facility currently operates on an interim basis in accordance with §10908(e)(1)(H) of the Federal Rail Safety Improvements, Public Law 110-432 dated October 16, 2008, which is also known as the "Clean Railroads Act of 2008".

As required by the Clean Railroads Act of 2008, HRRC has submitted a solid waste permit application, No. 200901096, to the Department that was received on April 14, 2009. The Clean Railroads Act of 2008 indicates that while the application is being reviewed, HRRC is required to adhere to the State's environmental standards to the same extent as required for any similar solid waste management facility that is not owned or operated by or on behalf of a rail carrier. According to the Department's Site Information Management System the application is currently under "technical review" and has been assigned to Calin Tanovici, Sanitary Engineer – III. Concurrently with the permitting process, the Department has proposed and is negotiating a consent order with both HRRC & NT, collectively the "Respondents". The proposed enforcement action seeks to resolve the Respondents past violations, require specific improvements to both the site and operation, and incorporate a civil penalty for the past violations in accordance with the Department's Civil Penalty Policy.

The site's ground water classification is GA as are the surrounding surface water bodies (i.e., a couple of small ponds, streams and wetlands) which are within one thousand (1,000) feet of this facility. According to the Newtown Tax Assessor's office, HRRC is the owner of the property which is shown on their Map No. 5, Block No. 9 as Lot No. 21. The property is approximately 12.5 acres in size and is more fully described in volume 957 on page 1045 in the Town of Newtown Land Records. Structures on the property consist of a former post office building and a large warehouse building.

EMPLOYEE DISSCUSSION:

Michael Wallinger:

I asked Mr. Wallinger several questions during the inspection in order to obtain some background information and specific details concerning the operation of the facility. Mr. Wallinger stated the following:

He (Mr. Wallinger) has been employed and has worked at this facility for the last one and one-half (1 ½) years. He seemed to be unsure as to his employer since his first

response was NT but then indicated it was “Strategic Disposal, LLC¹”. Strategic Disposal, LLC was described as another Stephen Goldblum company, adding that the two (2) companies are “sisters” that are owned by Mr. Goldblum. Regarding the company’s relationship, he told us that NT is the “operator” of the site and Strategic Disposal, LLC “solicits” (seeks customers) user’s for the facility. We were informed that the facility accepts construction and demolition (C&D) waste. When asked what is “C&D” waste he responded “you know”. I indicated, I wanted to know what he specifically meant. He stated that “C&D” wastes are wood, insulation, sheetrock and roofing materials.

Concerning the operation, he stated that there is a scale attendant and two (2) laborers in addition to himself. He indicated that the two (2) laborers are with Strategic Disposal, LLC. The basic operation was described as follows: incoming waste deliveries arrive and go over their scale being recorded; the incoming waste delivery is then dumped at the unloading area of the facility; the waste material, if necessary, is pushed inside of the building; the unloaded waste is processed by their workers “hand” picking and removing any “garbage” items from the load (a four [4] cubic yard dumpster was pointed out as the depository for the removed waste); the processed waste material is moved out of the building and brought to the rail car loading area by their dozer; and, is then transferred into a rail car by their excavator, which is in an elevated position in relationship to the rail car.

Concerning his role at the facility, he stated that he “runs” the facility (i.e., overseeing the operation, operating the various pieces of heavy equipment, loading the outbound waste into rail cars, etc.). He received on-the-job training from a former worker, who is no longer employed but could not recall his name. When he started working at the site the operation was like this so he has just continued that operation in a similar fashion. He did indicate that he took the state test and passed becoming a “certified” operator².

Concerning company oversight, we were told that on average, Mr. Goldblum visits the site about once every two (2) weeks. However, they do regularly communicate, via telephone, with each other every other day or so. He is unaware of any written guidance and/or company plan. At about this point he left us and went to the office trailer. He went to retrieve something, however, he returned shortly thereafter indicating that “they” do not have a written plan nor are they required to have a plan until a permit is issued. When questioned further, he indicated that he had spoken to Mr. Goldblum, via telephone, who indicated this information.

¹ According to a business inquiry of the Secretary of State, Strategic Disposal, LLC was organized on September 11, 2008 and has listed their business address as 30 Hawleyville Road, Newtown, CT with Samuel Hurwitz, Esq. as the “Agent”.

² Department files indicate that Mr. Wallinger is a certified operator in accordance with §22a-209-6 of the Regulations of Connecticut State Agencies.

Stephen Goldblum:

While inspecting the facility Mr. Wallinger walked up to me with a cellular phone. Mr. Wallinger indicated that Mr. Goldblum was on the phone and he wanted to speak to me. After the customary pleasantries, I indicated that since I have never been here I wanted to see the operation first hand and was conducting an inspection of the facility. Mr. Goldblum (he) asked what I found and thought of his operation. I stated that I had not had an opportunity to inspect the entire facility, yet, but based on my initial observation, I thought the site is poorly run and needed attention. He stated that is not how he wants it and stated that improvements will be made. He indicated that the steel for the building is on-site and if I noticed it? I stated yes, and that I saw the three (3) recently constructed footings. He asked if there was any litter. I said I had just started my inspection but the site appeared to be clear and I did notice a litter fence to the east along the wetlands. He indicated that it seems I was unfamiliar with the site and with the background of the operation. I indicated that I had a basic knowledge of the history of the site. He indicated that “he left it (operation) to them”, that it was “hard to know” what is going on “when I am here” (twenty [20] miles away). I explained if I had questions at the end of my inspection I would inquire and we ended the conversation.

OBSERVATIONS

The areas and/or locations described in this report are depicted on an engineering drawing prepared by HRP Associates, Inc. entitled “Proposed Site Plan Solid Waste Volume Reduction Plant Housatonic Railroad Company, Inc. 30 Hawleyville Road (Route 25) Newtown, Connecticut” dated November 23, 2009 revised to September 17, 2010 (the “site plan”).

The unloading and processing building being utilized for the facility is in a state of disrepair³. The remaining roof over the unloading area is questionable and marginal, evidenced by hanging pieces of the roof structure. In addition, it appears to have been struck on several occasions. Several side panels on the northern side of the building were also damaged and/or partially disconnected. Efforts were made, during the inspection, to limit our presence under this structure especially during the unloading of incoming waste and when the off loaded waste was pushed into the area. The facility’s unloading area, under the roof, was clear of piled solid wastes. We observed some residual solid wastes from previously tipped loads. This material consisted of C&D waste, mandated recyclable solid wastes and MSW items. Specifically observed were: a white plastic trash bag (household type); fragments and/or pieces of dimensional (predominately used) lumber; various plastic items (i.e., flower pots, beverage containers, food packaging and/or containers, clothing hanger, small plastic bags, PVC pipe pieces, garbage can [household type] and other indiscernible items); fiber items (i.e., cardboard and/or paper products); metal items (i.e., BX cable, banding, conduit, beverage containers, siding, and unknown items); shingles; Styrofoam items; sheetrock;

³ Previous inspections found that a significant portion of the original roof had collapsed and was removed. This has lead to having a significant portion of the activity being outside and exposed to the weather.

cloth; and, insulation. The white trash bag was opened and found to be full of household paper items. Specifically observed were fiber wastes from the Mulveys of 120 Eleanor Terrance, Fairfield, CT 06824 evidenced by multiple documents from “Mrs. Mulvey’s Language Arts” class; manila envelopes; a post marked, 06 July 2011, envelope from “Hansen’s Flower Shop” in Fairfield, CT; a document from “Sikorsky Credit Union Stratford, CT”; and, Michael Mulvey’s 2008 “Application for Storage Sailboat Rack–Catamarans–One Design–Jennings Beach” from the Town of Fairfield, CT.

While on-site we observed an All American Waste, LLC⁴ roll-off truck arrive, Connecticut Registration Plate No. 46280A, with an approximately thirty (30) cubic yard container. The truck backed up and off-loaded its contents. The truck was about five (5) feet, roughly had the first rear wheel of the truck, under the roof when it started to dump its load. As the contents began to dump out, the truck started to drive out from under the roof allowing the container to be raised to its maximum elevated position. The unloaded process was not completed until the truck was about fifteen (15) feet past the roof line. This was evidenced by the length of the tipped solid waste equaling three and a half (3 1/2) pre-cast blocks that are adjacent to the western side of the unloading area and extend out past the roof line and adjacent to the eastern side of the fuel tank that is on-site. The contents of the tipped load were predominately recyclable solid wastes. After the truck left, a Cat 966E loader pushed the deposited solid waste under the building’s roof.

The following solid wastes were observed: numerous large pieces of cardboard; a metal and wood shelving unit; a metal display rack; numerous and various commercial plastic signs and/or banners of which some were labeled “Target”; a few plastic “Target” shopping bins; about a dozen loafs of bread; a computer monitor; a couple of wooden pallets; a plastic “Sherman Williams” joint compound tub; food packaging waste, plastic beverage container; a section of foam pipe wrap; and two [2] metal containers (a closed five [5] gallon bucket labeled “2170 Adhesive Sarnacol Roofing Adhesive” with some contents and an open one [1] gallon can that had the National Fire Protection Agency label “Flammable Liquid” on it. Note: this open container had some residual contents that had a distinctive and very strong odor associated with it. The content of this container was noted as readily melting plastics that it came into contact with.

Heading east and adjacent to the unloading area, is a transition area that was formally covered by the roof. This area, we were told, has a concrete slab floor which was covered by approximately one (1) foot thick mixture of soil and solid waste residue. A Cat model 973 bucket dozer was parked and three (3), recently pored, concrete footings noted in this area. We were told that these footings were for the new building steel that is proposed to replace the collapsed structure. This area was muddy and wet with some standing water. Although

⁴ I contacted John Pizzimenti, Environmental Compliance Manager, from the hauling company to obtain information concerning the waste generator. Mr. Pizzimenti indicated he would have to get back to me. Ultimately, Mr. Pizzimenti indicated that the generator was a commercial store, specifically “Target” located at 7 Stone Hill Road, Bethel, CT. Their customer was Oakleaf Waste Management out of Windsor, CT. Mr. Pizzimenti stated that their ticket listed the job as a “renovation” a temporary can for improvements.

there was no stockpile of solid waste, the ground's surface was entrained with waste. The solid wastes observed in this area were: fiber items (paper and cardboard), used dimensional lumber pieces and/or fragments; metal items (bands, conduit, cable; vacuum canister top, compressed cylinder, and indiscernible items); plastic items (jugs, beverage containers, laundry basket, trash can, indiscernible items); siding pieces; insulation; glass pieces; and, brick pieces and/or fragments. Noting: 1) that the wastes were being incorporated into the soil; and, 2) the muddy condition along with solid wastes sitting in standing water, we asked why the slab was covered with the soil. We were informed that if it was not covered, the dozer would destroy the slab.

Continuing in an easterly direction is the rail car loading area. This area consists of a berm of material running in a north to south orientation. On the eastern side of the berm is the rail tract (spur), which had a couple of open top gondola rail cars parked, and on the west side of the berm was a small stockpile of solid waste material on the magnitude of a hundred (100) cubic yards in volume. On top of this berm, was a Hitachi 450 LC excavator with a grapple attachment. The pile of solid waste, on the west side of the berm, consisted of similar solid wastes that have been previously described and noted on-site. Mr. Wallinger stated that one of the cars was partially filled today. The other rail car was empty.

As we walked around we noted that the site was reasonably free of litter. A litter fence ran along the eastern border between the site and what appeared to be a wetland to the east. To the north in a cleared area was a stockpile of a soil mixture on the magnitude of three hundred (300) cubic yards in volume. In the northwestern corner of the site was a pile of covered steel beams, which is the steel for the proposed structure. Fire protection was provided by hand held fire extinguishers. Of the four (4) observed, one (1) was in need of recharging and all had not had any monthly inspection notes on the tags.

Regarding today's operation of the facility, we were informed that twenty-five (25) loads were received and processed. We checked the four (4) cubic yard dumpster, with the logo "Associated Refuse Haulers" and the number 470 on it, on-site which was described as the container used to dispose of objectionable solid waste removed from the incoming deliveries. The can was found to contain one (1) plastic trash bag, that contained the Mulvey's waste, multiple loafs of bread and the two (2) metal containers (i.e., the five [5] gallon bucket of adhesive and one [1] gallon container of "Flammable Liquid") both previously described.

Before leaving, we explained that the "adhesive" and "flammable liquid" needed to be removed from the four (4) cubic yard dumpster and properly managed and disposed off. We briefly discussed in general terms the concept of hazardous wastes and their proper management. Mr. Wallinger asked for a definition of C&D wastes. I stated that I would fax him that definition within a few days. While on-site several photographs were taken and are attached.

Attachment