

STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



October 8, 2009

Mr. Colin Pease Vice President
Housatonic Railroad Company, Inc.
8 Davis Road West
P.O. Box 687
Old Lyme, CT 06371

NOTICE OF INSUFFICIENCY

RECEIVED

OCT 13 2009

OFFICE OF THE FIRST SELECTMAN

Re: Proposed Volume Reduction Facility
Housatonic Railroad Company, Inc.
30 Hawleyville Road, Newtown CT
CT DEP Application No. 200901096

Dear Mr. Pease:

The Bureau of Materials Management and Compliance Assurance, Waste Engineering and Enforcement Division within the Department of Environmental Protection (the "Department") has reviewed your above referenced pending application, submitted on April 14, 2009.

In accordance with Section 22a-3a-2(e) of the Regulations of Connecticut State Agencies ("RCSA"), the Department hereby gives notice that the application submitted by or on behalf of Housatonic Railroad Company, Inc. (HRRC or "the applicant"), has been determined to be insufficient. This determination is based on several factors outlined below including incompleteness of and inconsistency in the application form and supporting documents. The insufficiencies are itemized as follows:

1. **Application Form.**

Several sections of required information were not provided or contradict the information provided in supporting documents, specifically: the name and contact information for the applicant's attorney (Part III - Applicant Information); property interest and site owner information (Part III - Applicant Information); information required under items numbered 5, 8, 9.a. and 9.b. pertaining to the site (Part IV - Site Information); the list of both fixed and mobile equipment existing and proposed for the facility (Part V - Facility Information); the list of all wastes types and storage and processing capacities proposed for the facility (Part V - Facility Information); and the signatures of the preparer and the professional engineer licensed to practice in Connecticut (P.E.) who is responsible for the overall design and plan of operation and management of the facility (Part VII - Applicant Certification). Please provide a complete and accurate application form.

2. **Attachment I - Statement of Consistency**

The attachment is incomplete and does not provide detailed information that is consistent with the supporting documents submitted as part of the application, including but not limited to the Operation and Management Plan (O&M Plan). Please ensure that the data presented in the tables of this attachment clearly identify all types of solid waste described in the application form that are proposed to be handled at the facility. Specifically, the tables in Attachment I must be complete, accurate and consistent as they pertain to: the types of waste; estimated amounts per year for all proposed wastes (both stored and processed); origin of waste; final disposal of all wastes; and estimated disposal amounts per year for each type of waste to be shipped off-site.

Also, please provide current letters of agreement with disposal locations or entities for the disposal of all types of solid waste proposed to be received, processed, stored on-site and finally disposed of off-site.

3. Attachment J - Business Information

Submitted as part of the application and according to the *Quit Claim Deed*, dated December 12, 1994, between Lloyd Home and Building Centers, Inc. and Danbury Terminal Railroad Co. (DTRC); and the *Certificate of Merger*, dated December 10, 1996, between HRRC and DTRC, the site owner continues to be DTRC (or "the site owner"). Further, the owner of the real property known as the "bulk loading track" according to map C-1 titled *Existing Conditions*, appears to be Maybrook Railroad Co. Therefore, the following documents must be submitted in support of the application:

- a. A signed lease agreement between HRRC and DTRC.
- b. A comprehensive organizational chart showing the relationships between: HRRC; DTRC; Newtown Transload, LLC (identified in the application as the operator); Strategic Disposal, LLC (identified as the waste manager for the facility); Maybrook Railroad Co. (owner of the adjacent 2,500 ft. "bulk loading track").

4. Attachment K - Drawings

The set of drawings submitted provides an incomplete picture of the facility, as proposed. Additional P.E. certified drawings must be submitted to show:

- a. The tipping floor layout for indoor processing and storage activities; types of waste to be stored, maximum storage volume in cubic yards and manner of such storage (e.g. piles, containers, etc.); location of specific fixed processing equipment proposed to be installed indoors; proposed location of fire protection equipment, water hoses, and any dust control equipment or systems proposed as part of the building design.
- b. A "proposed site plan" showing: all outdoor areas area(s) proposed to: be filled (or which have been filled) or paved; any outdoor waste processing area(s); any outdoor storage area(s), including the type and maximum stored volume, in cubic yards, and the manner of such storage (e.g. piles, containers, etc.); traffic flow, including access and egress to the facility; and any staging areas for empty and/or loaded containers.

5. Operation and Management Plan (O&M Plan)

The information provided in this plan must be fully consistent with all other information provided in the application or other documents submitted in support of the application. The sections of the O&M Plan must provide the level of detail regarding the operation and management of the facility as outlined in the *Guidelines for Completing the Facility Plan* provided to applicants by the Department. The O&M Plan must address all operations at the facility, both current and proposed, and indicate any proposed modifications to current operations that may be planned. Specifically the O&M Plan must provide the following:

- a. Detailed and consistent descriptions of each proposed operational phase, including tables specifying the waste types, and estimated volumes for each proposed waste type to be received in tons per day (TPD), processed in TPD and stored on-site for further transfer in cubic yards; and
- b. Separate detailed handling descriptions for each waste type being proposed for: indoor handling; mechanical processing; sorting; storage in dedicated areas of the existing; other processing; transfer to railcars; outdoor handling: receipt; unloading and storage outdoors in piles, containers and railcars; and direct transfer from trucks to railcars through the in any area at the facility.

Please note that the O&M Plan must be prepared and certified by the P.E. responsible for the design of the facility and the development of the plan.

6. Statement of Compliance with the Clean Railroads Act of 2008.

Please provide a certified statement, signed by an authorized HRRC representative, which provides a detailed description of all waste handling activities conducted at the facility between October 2007 and October 2009, and on what date waste handling began at the facility. The description shall not only identify the types of wastes received, processed, stored and transferred off-site but also the volumes thereof (in both cubic yards tons per day for receipt, processing, storage and transfer). Such statement shall also provide a description of the manner in which the wastes were processed and stored as well as the specific equipment used to process, store and transfer the wastes. The statement shall provide detailed information regarding maximum capacities for processing and storage at each location at the facility both indoors and out-of-doors and maps delineating the locations of each.

The statement shall also describe, in detail, the specific handling methods used for each waste type from the receipt of each waste at the facility through to and including the transfer off-site of each waste. The signed certification for the *Statement of Consistency with the Clean Railroads Act of 2008* shall include the following statement:

“I understand that a false statement in the submitted information may be punishable as a criminal offence, in accordance with Section 22a-6 of the General Statutes, pursuant to Section 53a-157b of the General Statutes, and in accordance with any other applicable statute.”

7. Executive Summary

The Executive Summary must be consistent with all information presented in the application and its supporting documents. Please revise the summary pursuant to the modifications to the application and the supporting documents to the application as requested in this Notice of Insufficiency. No information shall be contained in the summary that is not presented in the application or the supporting documents to the application.

8. The applicant should obtain a registration under the *General Permit for the Discharge of Stormwater Associated with Industrial Activity* as required for this facility. For you information the General Permit, instructions and application materials can be found at the following link:

http://www.ct.gov/dep/cwp/view.asp?a=2709&q=324212&depNav_GID=1643

Note that all information provided in the application and presented in all supporting documents must be consistent; any discrepancies in the application package may be grounds for rejection of the application.

The Department will not process this application further until the issues outlined in this Notice of Insufficiency have been resolved by the applicant to the satisfaction of the Commissioner.

The applicant has thirty (30) days, from the date of this letter, to submit an adequate response to this Notice of Insufficiency. The applicant may also request a meeting for the purposes of clarifying and addressing the insufficiencies identified herein.

Should the applicant fail to correct the identified insufficiencies, either within the timeframe specified or not to the satisfaction of the Commissioner, pursuant to RCSA Section 22a-3a-5 the Commissioner may reject the application for insufficiency. Should the application be rejected because the information was not appropriately received in a timely manner, the applicant must submit a new application along with the appropriate fee in order to reinitiate the permit process.


If the applicant determines that the above insufficiencies cannot be resolved within the specified timeframe; the applicant may submit a written request for a fifteen (15) day extension. No further extensions will be granted.

Should the applicant resolve the insufficiencies identified in this notice by submitting the requested information and documents in an acceptable form and within the specified timeframe, a Notice of Sufficiency will be issued. Upon the issuance of a Notice of Sufficiency the technical review of your application will begin.

Nothing in this notice shall preclude the Department from requiring that additional information be submitted, if the application is not rejected or is deemed sufficient. Performing an activity without all permits required by Title 22a of the General Statutes may subject you to an injunction and penalties.

Should you have any questions about this notice, please contact Ms. Gabrielle Frigon at 860-424-3795 or via email at gabrielle.frigon@ct.gov. You may also contact Mr. Calin Tanovici at (860) 424-3315 or via email at calin.tanovici@ct.gov.

Sincerely,



Diane W. Duva, Assistant Director
Waste Engineering and Enforcement Division
Bureau of Materials Management and Compliance Assurance

Copy:

Joseph E. Borst, First Selectman, Edmond Town Hall, 45 Main Street, Newtown CT 06470
Kimberly P. Massicotte, Assistant Attorney General, Office of the Attorney General, 55 Elm Street, Hartford CT