

WASTE ENGINEERING & ENFORCEMENT DIVISION

**NOTICE OF VIOLATION # \_\_\_\_\_**

**Date Issued: \_\_\_\_\_**

To: The Housatonic Railroad Company, Inc.  
8 Davis Road  
P.O. Box 687  
Old Lyme, CT 06371

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 your property located approximately 2,040 feet east of Halweyville Road (Route 25) along the railroad track labeled "bulk loading track" on an engineering drawing entitled "Existing Conditions Housatonic Railroad Company Inc. Shepaug Terminal 30 Hawleyville Road (Route 25) Newtown, Connecticut", drawing No. C-1 dated 4-6-09, prepared by John Paul Garcia and Associates, P.C. On September 2, 2009, an inspection was conducted by the DEP Bureau of Materials Management and Compliance Assurance. Based upon that inspection, it appears that you have:

- 1) Built or established a solid waste transfer station where more than ten cubic yards of solid waste including construction and demolition debris generated elsewhere, was collected and transferred to another location after July 1, 1971, without a plan, design and method of operation of such solid waste facility having been filed with the Department and approved by the Commissioner by the issuance of a permit to construct a solid waste facility as required by §22a-209-4 and §22a-209-9 of the Regulations of Connecticut State Agencies (RCSA), and §22a-208-a(b), §22a-208c of the Connecticut General Statutes (CGS).

If the activity observed on September 2, 2009 was conducted by a 3<sup>rd</sup> party contractor, please identify the contractor and relationship to the Housatonic Railroad Company, Inc.

Additional Comments

In response to this NOV, please submit the following:

- A. Documentation that substantiates:
  - 1) the location of where the fill material placed at the 30 Hawleyville Road facility came from;
  - 2) the total amount of material received;
  - 3) that the material meets the Department's definition of "clean fill" per §22a-209-1 of the RCSA.
- B. Documentation that describes your operations prior to and as of the enactment of the Federal Clean Railroads Act (CRA) of 2008 on October 16, 2008. Specifically, provide details describing the types and amounts of solid waste transferred and/or processed at the subject site. Additionally, identify the final disposal sites and estimated amounts for each type of waste shipped from your facility.

When you have corrected the violation(s) alleged in this notice, you should submit in writing the details of the corrective action(s). Your submittal should be made within thirty (30) days of receipt of this document and sent to the contact person identified below in paragraph D along with the signed Compliance

**The Housatonic Railroad Company, Inc.  
30 Hawleyville Road, Newtown, CT 06470**

Statement (enclosed). If the violation(s) cannot be corrected within thirty (30) days, send DEP a schedule for compliance within thirty (30) days, describing the actions you will take to correct the violation(s) with a timetable for such actions. Until the DEP has received such a statement, the DEP will presume you remain in violation.

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. The 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 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 violation under §22a-226 of the CGS. 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 446D of the CGS.

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 Ms. Bethany McWade of the Bureau of Materials Management & Compliance Assurance at (860) 424-3303, 79 Elm Street, Hartford, Connecticut 06106-5127.

\_\_\_\_\_  
Robert C. Isner, Director  
Waste Engineering and Enforcement Division  
Bureau of Materials Management and Compliance Assurance

NOV # \_\_\_\_\_

Date Issued: \_\_\_\_\_

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CC:

- Maybrook Railroad Company, P.O. Box 687, Old Lyme, CT 06371
- Strategic Disposal, LLC, 30 Hawleyville Road, Newtown, CT 06470
- Newtown Transload, LLC, 30 Hawleyville Road, Newtown, CT 06470

**The Housatonic Railroad Company, Inc.**  
**30 Hawleyville Road, Newtown, CT 06470**

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**COMPLIANCE STATEMENT**

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This Compliance Statement shall be signed by: (I) 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* (II) 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 staff contact identified on the Notice of Violation.

Notice of Violation No. WSWDS  
Facility Name: The Housatonic Railroad Company, Inc.  
(Site)Address: 30 Hawleyville Road  
Newtown, CT 06470

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

Attach additional 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 Section 22a-6 and 53a-157.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
(Type name and title)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Preparer's Signature, if different than above

**The Housatonic Railroad Company, Inc.  
30 Hawleyville Road, Newtown, CT 06470**

Telephone	(Type name and Title)
<hr/>	
Address	

### **ADVICE TO RECIPIENTS OF NOTICES OF VIOLATION\***

**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 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 deadlines provided in the Notice of Violation, call the contact person. Explain why you can't meet the deadline. 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:** 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.

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

**The Housatonic Railroad Company, Inc.**  
**30 Hawleyville Road, Newtown, CT 06470**

[Note: This sheet is not a part of the NOV and is only attached to the original NOV which is retained in separate DEP files which are accessible to the public with close supervision. The NOV must be mailed to the Respondent by certified mail, return receipt requested. If the Respondent is a business, send a certified copy of the consent order to the business alone and a plain copy to the attention of a person at the business.]

**Certification of Mailing**

On \_\_\_\_\_, 2009, at \_\_\_:\_\_\_ a. m./p.m., I mailed a certified copy of NOV# \_\_\_\_\_ to the following, by placing it in the U.S. mail/interdepartmental mail:

- 1. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Certified mail number: \_\_\_\_\_  
[NOTE: CERTIFIED COPY TO RESPONDENT MUST BE SENT BY  
CERTIFIED MAIL]

On \_\_\_\_\_, 2009 at \_\_\_:\_\_\_ a.m./p.m., I mailed a copy (that was not a certified copy) of NOV# \_\_\_\_\_ to the following, by placing it in the U.S. mail/interdepartmental mail:

- \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Certified mail number (if sent by certified mail):

\_\_\_\_\_  
Name of person who did mailing  
Title  
\_\_\_\_\_  
Date