

**STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE & INSPECTION

**IN RE: Service Transport Group, Inc.
Barry Gaudet d/b/a Service Transport Group, Inc.**

FILE NO.: OCI-SW-21-82

NOTICE OF VIOLATION

A. INTRODUCTION

Pursuant to Sections 42-17.1-2(21) and 42-17.6-3 of the Rhode Island General Laws, as amended, (“R.I. Gen. Laws”) you are hereby notified that the Director of the Department of Environmental Management (“Director” of “DEM”) has reasonable grounds to believe that the above-named parties (“Respondents”) have violated certain statutes and/or administrative regulations under DEM's jurisdiction.

B. ADMINISTRATIVE HISTORY

On 16 August 2021, DEM issued a *Letter of Non-Compliance* (“LNC”) to Service Transport Group, Inc. (“STG”) for the alleged violations that are the subject of this *Notice of Violation* (“NOV”). The LNC required specific actions to correct the violations. On or about 2 September 2021, DEM received a letter from STG in response to the LNC. The letter stated that STG was taking steps to immediately address the issues described in the LNC. As of the date of the NOV, STG has failed to fully comply with the LNC.

C. FACTS

- (1) The property is located at 28 Privilege Street, Assessor’s Plat 20, Lot 83 in Woonsocket, Rhode Island (“Property”). The Property includes a solid waste transfer station (“Facility”).
- (2) STG operates the Facility.
- (3) STG is organized as a domestic corporation in the State of Pennsylvania.
- (4) STG was organized as a foreign corporation pursuant to the laws of the State of Rhode Island. On 14 November 2001, the Rhode Island Secretary of State revoked the Certificate of Registration/Organization for STG. Barry Gaudet is the last known president of the corporation.
- (5) On 5 February 2020, DEM issued a license (“License”) to STG to accept, consolidate, and store asbestos waste (“Asbestos Waste”) prior to shipment to other destination facilities. As part of the licensing process, STG submitted an operating plan (9 July 2018 revision) that was approved by DEM (“Operating Plan”). The License and Operating Plan in part require STG to:

- (a) Store no more than 400 tons of Asbestos Waste at the Facility at any time.
 - (b) Restrict Asbestos Waste storage time at the Facility to no more than 30 days.
 - (c) Operate the Facility in full compliance with the Operating Plan.
 - (d) Operate the Facility in full compliance with Rhode Island's *Rules and Regulations for Solid Waste Management Facilities and Organic Waste Management Facilities (250-RICR-140-05-1)* [effective 15 March 2018 to Current] ("Solid Waste Regulations").
- (6) The License expired on 17 July 2021; however, in accordance with Part 1.8(H) of the Solid Waste Regulations, the License remains in effect until it is revoked.
- (7) On 20 July 2021, 11 August 2021, and 23 August 2021, DEM inspected the Facility ("Inspections").
- (8) On or about 26 July 2021 and on 26 October 2021, 20 December 2021, and 28 February 2022, STG submitted reports to DEM of the Asbestos Waste stored at the Facility ("Inventory Reports").
- (9) DEM's review of the Inspection Reports and Inventory Reports revealed the following:
- (a) As of 26 July 2021, approximately 742 tons of Asbestos Waste was in storage and 68 trailers or containers holding Asbestos Waste was stored more than 30 days.
 - (b) As of 26 October 2021, approximately 1,143.5 tons of Asbestos Waste was in storage and 83 trailers or containers holding Asbestos Waste was stored for more than 30 days.
 - (c) As of 20 December 2021, approximately 860.7 tons of Asbestos Waste was in storage and 61 trailers or containers holding Asbestos Waste was stored for more than 30 days.
 - (d) As of 28 February 2022, approximately 765.9 tons of Asbestos Waste was in storage and 56 trailers or containers holding Asbestos Waste was stored for more than 30 days.
 - (e) As of 4 March 2022, approximately 722 tons of Asbestos Waste was in storage.
- (10) As of the date of the NOV, Respondents have failed to correct the issues of non-compliance set forth in subsection C (9) above.

D. VIOLATION

Based on the foregoing facts, the Director has reasonable grounds to believe that you have violated the following regulations:

- (1) **Solid Waste Regulations, Part 1.9(N)** – requiring that solid waste management facilities be operated in conformance with DEM approved operating and engineering plans.

E. ORDER

Based upon the violations alleged above and pursuant to R.I. Gen. Laws Section 42-17.1-2(21), you are hereby ORDERED to:

- (1) **IMMEDIATELY cease accepting additional Asbestos Waste.** No Asbestos Waste shall be accepted at the Facility until compliance with this Order is confirmed in writing by DEM’s Office of Land Revitalization & Sustainable Materials Management.
- (2) **Within 30 days of receipt of the NOV**, remove all Asbestos Waste stored at the Facility for compliant disposal in accordance with all applicable federal, state and local statutes and regulations.
- (3) **Within 45 days of receipt of the NOV**, submit a written report to DEM’s Office of Compliance and Inspection that details all actions taken to comply with this Order and include written verification of the compliant disposal of all Asbestos Waste removed from the Facility pursuant to this Order.

F. PENALTY

- (1) Pursuant to R.I. Gen. Laws Section 42-17.6-2, the following administrative penalty, as more specifically described in the attached penalty summary and worksheets, is hereby ASSESSED, jointly and severally, against each named respondent:

\$25,000

- (2) The proposed administrative penalty is calculated pursuant to Rhode Island’s *Rules and Regulations for Assessment of Administrative Penalties* (250-RICR-130-00-1) (“Penalty Regulations”) and must be paid to DEM within 30 days of your receipt of the NOV.

- (3) Penalty payments shall be by one of two methods:
- (a) By certified check, cashier's check, or money order made payable to the **General Treasury – Environmental Response Fund** and forwarded to:
- Administrator, DEM Office of Compliance and Inspection
235 Promenade Street, Suite 220
Providence, RI 02908-5767.
- (b) By wire transfer in accordance with instructions provided by DEM.
- (4) Penalties assessed against Respondents in the NOV are penalties payable to and for the benefit of the State of Rhode Island and are not compensation for actual pecuniary loss.
- (5) If any violation alleged herein shall continue, then each day during which the violation occurs or continues shall constitute a separate offense and the penalties and/or costs for that violation shall continue to accrue in the manner set forth in the attached penalty summary and worksheets. The accrual of additional penalties and costs shall be suspended if DEM determines that reasonable efforts have been made to comply promptly with the NOV.

G. RIGHT TO ADMINISTRATIVE HEARING

- (1) Pursuant to R.I. Gen. Laws Chapters 42-17.1, 42-17.6, 42-17.7 and 42-35, each named respondent is entitled to request a hearing before DEM's Administrative Adjudication Division regarding the allegations, orders and/or penalties set forth in Sections B through F above. All requests for hearing MUST:
- (a) Be in writing. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.6-4(b).
- (b) Be **RECEIVED** by DEM's Administrative Adjudication Division, at the following address, within 20 days of your receipt of the NOV. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and 42-17.7-9:
- Administrative Clerk
DEM - Administrative Adjudication Division
235 Promenade Street, Room 350
Providence, RI 02908-5767.
- (c) Indicate whether you deny the alleged violations and/or whether you believe that the administrative penalty is excessive. See R.I. Gen. Laws Section 42-17.6-4(b).

- (d) State clearly and concisely the specific issues which are in dispute, the facts in support thereof and the relief sought or involved, if any. See Part 1.7(B) of Rhode Island's Rules and Regulations for the Administrative Adjudication Division (250-RICR-10-00-1).
- (2) A copy of each request for hearing must also be forwarded to:
- Susan Forcier, Esquire
DEM - Office of Legal Services
235 Promenade Street, 4TH Floor
Providence, RI 02908-5767
- (3) Each named respondent has the right to be represented by legal counsel at all administrative proceedings relating to this matter.
- (4) Each respondent must file a separate and timely request for an administrative hearing before DEM's Administrative Adjudication Division as to each violation alleged in the written NOV. If any respondent fails to request a hearing in the above-described time or manner regarding any violation set forth herein, then the NOV shall automatically become a Final Compliance Order enforceable in Superior Court as to that respondent and/or violation and any associated administrative penalty proposed in the NOV shall be final as to that respondent. See R.I. Gen. Laws Sections 42-17.1-2(21)(i) and (vi) and 42-17.6-4(b) and (c).
- (5) Failure to comply with the NOV may subject each respondent to additional civil and/or criminal penalties.
- (6) An original signed copy of the NOV is being forwarded to the City of Woonsocket, Rhode Island, wherein the Property is located, to be recorded in the Office of Land Evidence Records pursuant to R.I. Gen. Laws Chapter 34-13 and Section 23-18.9-13, as is or as amended.
- (7) The NOV does not preclude the Director from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, you may contact (or if you are represented by an attorney, please have your attorney contact) Susan Forcier of DEM's Office of Legal Services at (401) 222-6607 or at susan.forcier@dem.ri.gov. All other inquiries should be directed to Tracey D'Amadio Tyrrell of DEM's Office of Compliance and Inspection at (401) 222-1360, ext. 2777407 or at tracey.tyrrell@dem.ri.gov.

Please be advised that any such inquiries do not postpone, eliminate, or otherwise extend the need for a timely submittal of a written request for a hearing, as described in Section G above.

FOR THE DIRECTOR

By: _____
David E. Chopy, Administrator
DEM Office of Compliance and Inspection

Dated: _____

CERTIFICATION

I hereby certify that on the _____ day of _____
the within Notice of Violation was forwarded to:

SERVICE TRANSPORT GROUP, INC.
c/o Thomas D. Gaudet, President
P.O. Box 2132
Bristol, PA 19007-0932

Barry Gaudet
d/b/a Service Transport Group, Inc.
321 Lincoln Avenue
Bristol, PA 19007.

by Certified Mail.



ADMINISTRATIVE PENALTY SUMMARY

Program: Solid Waste
 File No.: OCI-SW-21-82
 Respondents: STG and Barry Gaudet d/b/a STG

GRAVITY OF VIOLATION					
SEE ATTACHED "PENALTY MATRIX WORKSHEETS."					
VIOLATION No. & CITATION	APPLICATION OF MATRIX		PENALTY CALCULATION		AMOUNT
	Type	Deviation	Penalty from Matrix	Number or Duration of Violations	
D (1) – Failure to operate the Facility in conformance with the license conditions and the approved operating plan	Type I <i>(\$25,000 Max. Penalty) *</i>	Major	\$25,000	1 violation	\$25,000
SUB-TOTAL					\$25,000

*Maximum Penalties represent the maximum penalty amounts per day, per violation.

ECONOMIC BENEFIT FROM NON-COMPLIANCE
<p>COSTS OF COMPLIANCE, EQUIPMENT, O&M, STUDIES OR OTHER DELAYED OR AVOIDED COSTS, INCLUDING INTEREST AND/OR ANY COMPETITIVE ADVANTAGE DERIVED OVER ENTITIES THAT COMPLY. NOTE: ECONOMIC BENEFIT MUST BE INCLUDED IN THE PENALTY UNLESS:</p> <ul style="list-style-type: none"> - THERE IS NO IDENTIFIABLE BENEFIT FROM NON-COMPLIANCE; OR - THE AMOUNT OF ECONOMIC BENEFIT CANNOT BE QUANTIFIED.
<p>A review of the record in this matter has revealed that Respondents have either enjoyed no identifiable benefit from the non-compliance alleged in this enforcement action or that the amount of economic benefit that may have resulted cannot be quantified.</p>

COST RECOVERY
<p>ADDITIONAL OR EXTRAORDINARY COSTS INCURRED BY THE DIRECTOR DURING THE INVESTIGATION, ENFORCEMENT AND RESOLUTION OF AN ENFORCEMENT ACTION (EXCLUDING NON-OVERTIME PERSONNEL COSTS), FOR WHICH THE STATE IS NOT OTHERWISE REIMBURSED.</p>
<p>A review of the record in this matter has revealed that DEM has not incurred any additional or extraordinary costs during the investigation, enforcement and resolution of this enforcement action (excluding non-overtime personnel costs), for which the State is not otherwise reimbursed.</p>

TOTAL PENALTY PROPOSED UNDER PENALTY REGULATIONS = \$25,000

PENALTY MATRIX WORKSHEET

CITATION: Failure to operate the Facility in conformance with the license conditions and the approved operating plan

VIOLATION NO.: D (1)

TYPE		
<u> X </u> TYPE I <u>DIRECTLY</u> related to protecting health, safety, welfare or environment.	<u> </u> TYPE II <u>INDIRECTLY</u> related to protecting health, safety, welfare or environment.	<u> </u> TYPE III <u>INCIDENTAL</u> to protecting health, safety, welfare or environment.
DEVIATION FROM THE STANDARD		
<small>THE DEGREE TO WHICH A PARTICULAR VIOLATION IS OUT OF COMPLIANCE WITH THE REQUIREMENT VIOLATED.</small>		
<p>FACTORS CONSIDERED:</p> <p>Taken from Part 1.10(A)(1)(b) of the Penalty Regulations.</p> <ol style="list-style-type: none"> (1) The extent to which the act or failure to act was out of compliance: Asbestos Waste is being stored at the Facility for more than 30 days and more than 400 tons of Asbestos Waste is being stored at the Facility. The presence of excessive amounts of waste and in storage for excessive lengths of time presents a significant threat to public health and safety. (2) Environmental conditions: The Facility is in an environmental justice area. The Property abuts a High Hazard dam. A portion of the northern end of the Property lies within a drinking water supply watershed. The Facility is located in a GB groundwater classification zone, which are groundwater resources designated as unsuitable for drinking water use without treatment. The Property is in Mill River watershed. The northern boundary of the Property is within 25 feet of the ponded section of Mill River. There are residential structures located within 600 feet of the northwest boundary of the Property. (3) Amount of the pollutant: As of 4 March 2022, there were 721.8 tons of asbestos waste in storage at the Facility. As of 20 December 2021, approximately 860.7 tons of asbestos waste were in storage at the Facility and in an unauthorized off-site location. On or about 26 October 2021, there were 1,143.5 tons in storage. On or about 26 July 2021, there were 742.2 tons in storage. The Facility’s license restricts storage to 400 tons or less. (4) Toxicity or nature of the pollutant: Asbestos is a known human carcinogen. The threat is posed when asbestos fibers are inhaled into the lungs. Asbestos Waste stored at the Facility is presumably wetted, double-bagged and stored inside closed containers. (5) Duration of the violation: Full duration unknown – at least approximately 8 months. DEM first observed the alleged violations on 20 July 2021. (6) Areal extent of the violation: Considered, but not utilized for this calculation. 		
(continued)		

(continued from the previous page)

- (7) **Whether the person took reasonable and appropriate steps to prevent and/or mitigate the noncompliance:** Respondents failed to take reasonable and appropriate steps to prevent the non-compliance by operating the Facility in full compliance with the Operating Plan, the License, and the Solid Waste Regulations. Respondents have yet to fully mitigate the non-compliance despite receiving the LNC from DEM, which required that they do so. Upon information and belief, Respondents ceased accepting Asbestos Waste at the Facility on or about 3 September 2021 and have been removing material on a regular basis to reduce the amount in storage.
- (8) **Whether the person has previously failed to comply with any regulations, order, statute, license, permit or approval issued or adopted by the Department, or any law which the Department has the authority or responsibility to enforce:** Considered, but not utilized for this calculation.
- (9) **The degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable:** Negligence is attributable to Respondents for the failure to comply with the Solid Waste Regulations and the License and operate in conformance with the approved Operating Plan. Respondents, as operators of the Facility, had complete control over the occurrence of the violations.
- (10) **Any other factor(s) that may be relevant in determining the amount of a penalty:** Considered, but not utilized for this calculation.

<u> X </u> MAJOR	MODERATE	MINOR
--------------------	----------	-------

Penalty Matrix where the applicable statute provides for a civil penalty up to \$25,000		TYPE I	TYPE II	TYPE III
DEVIATION FROM STANDARD	MAJOR	\$12,500 to \$25,000 \$25,000	\$6,250 to \$12,500	\$2,500 to \$6,250
	MODERATE	\$6,250 to \$12,500	\$2,500 to \$6,250	\$1,250 to \$2,500
	MINOR	\$2,500 to \$6,250	\$1,250 to \$2,500	\$250 to \$1,250