



State of Ohio Environmental Protection Agency

Northwest District Office

347 North Dunbridge Road
Bowling Green, Ohio 43402

TELE: (419) 352-8461 FAX: (419) 352-8468
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Laura H. Powell, Acting Director

Re: Maumee & Western RR
Referrals #2403 & #2420
Defiance & Paulding Counties
Hazardous Waste
Second Notice of Violation
OHR 000 134 445 - Defiance
OHR 000 134 544 - Antwerp

January 10, 2007

CERTIFIED MAIL

Mr. G. P. Bell, VP Operations
Maumee & Western Railroad
4301 N. Western Ave.
Connersville, Indiana 47331

This Notice of Violation (NOV) letter was originally sent to you by certified mail on February 2, 2006. You have not yet responded to this NOV. You must respond to this NOV immediately.

Dear Mr. Bell:

On January 5, 2006, I investigated two referrals and conducted two compliance evaluation inspections for two Maumee & Western Railroad (M&W) facilities. **Referral #2403** was for the facility at 817 Fifth Street in Defiance, Ohio and **Referral #2420** was for a track area in Antwerp, Ohio. According to Referral #2403, received by Ohio EPA's Division of Hazardous Waste Management, an Ohio EPA staff member observed 30-40 rusted drums by the tracks at the Defiance facility. According to Referral #2420, Ohio EPA's Division of Emergency and Remedial Response (DERR) reported drums of waste along the tracks in Antwerp. I inspected both M&W facilities to determine its compliance with Ohio's hazardous waste laws as found in Chapter 3734. of the Ohio Revised Code (ORC) and Chapter 3745. of the Ohio Administrative Code (OAC). I was accompanied by Jim Sellers of M&W at both locations. My inspections included observations of facility operations and a review of written documentation. This letter will explain the violations I found, what you need to do to correct the violations, one general concern and what you must do to address the general concern.

M&W is a short line railroad that operates from Liberty Center to just past Defiance, where it connects with the CSX line and from Woodburn, Indiana to about Cecil/Paulding, where it connects with the CSX line. In other words, the CSX line divides this short line. Referral #2403 is in Defiance on the eastern end of the line. Referral #2420 is in Antwerp on the western end of the line. Two engines are operated on the eastern end: #345 and #16 engines. One engine is operated on the western end: #7 engine. M&W owns the engines but not the cars. M&W carries mostly tomato paste and pelletized plastic, etc. In 1998, M&W bought the railroad from Indiana Highrail.

Mr. G.P. Bell
January 10, 2007
Page 2

The M&W engines are on a 92 day inspection schedule. The oil filters are changed at this time. The diesel engine has several oil filters. At least one of the filters is approximately 3 feet long and 10 inches in diameter. American Maintenance & Training (AM&T) does the routine maintenance; replacing the filters and inspecting the engine. According to Jim Sellers, AM&T takes the used oil filters away with them.

Each engine has a "pollution tank". Under the engine is a drip pan that collects oil, antifreeze/water leaks and drips. This mixture drains into the pollution tank. There is a valve for the pollution tank on the side of the engine. (See the file for a picture of this.) The waste is emptied into buckets and currently poured into 55-gallon drums. Approximately 1-2 drums are generated every 3-4 weeks in the winter (a little less in the summer). Safety-Kleen has been used in the past to manage this waste. M&W is operating, at least, as a used oil generator.

I found the following violations of Ohio's hazardous waste laws. In order to correct these violations, you must do the following and send me the required information **within 30 days** of your receipt of this letter:

FOR THE DEFIANCE FACILITY:

**1. Waste Evaluation
OAC Rule 3745-52-11**

A generator must determine whether its waste is hazardous by first determining if the waste is listed as a hazardous waste in rules 3745-51-30 to 3745-51-35; by testing the waste according to the methods set forth in rules 3745-51-20 to 3745-51-24; or by applying knowledge of the hazardous characteristic of the waste in light of the materials or the processes used.

M&W has failed to adequately evaluate all of its waste properly, according to this rule. In fact, at the time of my inspection, M&W did not know the contents of any of the dozens of drums being stored on the ground. However, some of the drums may be empty.

According to Mr. Sellers, Safety-Kleen pumped out approximately nine (9) 55-gallon drums of the waste on January 4, 2006, the day before my investigation. I had already told M&W that it was alright to have their used oil sent off-site for recycling whenever it was possible, as long as the paper work was presented on the day of my investigation. However, it was not clear how Safety-Kleen determined what was in the drums. M&W did not accompany the Safety-Kleen representative when the waste was removed. Furthermore, it was reported that several of the drums have a thick sludge in the bottom of them and could not be completely pumped out. Mr. Sellers provided a copy of the Safety-Kleen shipping paper.

M&W must evaluate the following wastes:

1. Waste Sludge: As described above, there are drums on-site that have un-pumpable sludge in the bottom. It is not known exactly how many drums of sludge are present. **M&W must determine how many drums of waste sludge are present. M&W must have a laboratory analysis of this waste performed for at least the flash point and the Toxicity Characteristic Leaching Procedure (TCLP) concentrations of RCRA metals.**
2. Five Drums of Antifreeze: There are five drums of antifreeze located near the office. Mr. Sellers has asked AM&T to come to the site and determine if the antifreeze is useable. **If it is waste, M&W must have a laboratory analysis of this waste performed for at least the flash point and the Toxicity Characteristic Leaching Procedure (TCLP) concentrations of RCRA metals.** If the analytical results demonstrate that it has a characteristic of hazardous waste, then M&W must send it to a permitted hazardous waste facility. If the analytical results demonstrate that it has no hazardous characteristic, it can be sent to a recycler.
3. Two Drums in Storage Car: M&W must evaluate these drums and any other container of waste in the storage car. If these drums can be positively identified as used oil, in a way that is acceptable to Ohio EPA, then M&W should make arrangements to have the used oil sent to a recycler as soon as possible. Since the floor is contaminated, if the waste is identified as used oil, M&W should make arrangements to immediately accumulate its used oil in a manner that will prevent leaks and releases. **If the waste cannot be positively identified, then M&W must submit a sampling and analysis plan suitable for identifying an unknown waste.** If any waste in the storage car is a hazardous waste, it may be necessary for M&W to decontaminate the floor.
4. Waste Batteries: M&W has accumulated used batteries. The storage area is on the ground behind the storage car. Mr. Sellers explained that some are from railroad switches and some are from vehicles. Five are broken open. This appears to have occurred over the years due to weathering and careless storage. **The broken batteries must be evaluated for hazardous characteristics. M&W must have a laboratory analysis of these wastes performed for at least the Toxicity Characteristic Leaching Procedure (TCLP) concentrations of RCRA metals.** If any of these broken batteries are hazardous waste, they must be sent to a permitted hazardous waste facility and M&W will have conducted unpermitted hazardous waste storage and disposal.
5. All Other Containers: M&W must evaluate all the containers on the ground at the facility, not already noted above. If any of these drums can be positively identified as used oil, in a way that is acceptable to Ohio EPA, then M&W should make arrangements to have the used oil sent to a recycler as soon as possible.

Mr. G. P. Bell
January 10, 2007
Page 4

If any of these drums can be identified as empty, Ohio EPA recommends that M&W recycle them as scrap metal, in order to help maintain a clean yard. **If any of these drums can be identified as waste antifreeze, M&W must have a laboratory analysis of this waste performed for at least the flash point and the Toxicity Characteristic Leaching Procedure (TCLP) concentrations of RCRA metals.** If the analytical results demonstrate that it has a characteristic of hazardous waste, then M&W must send it to a permitted hazardous waste facility. If the analytical results demonstrate that it has no hazardous characteristic, it can be sent to a recycler. Since a large area of the ground is extremely contaminated, if the waste is identified as used oil, M&W should make arrangements to immediately accumulate its used oil in a manner that will prevent leaks and releases. If any waste on the ground is a hazardous waste, it may be necessary for M&W to decontaminate the ground (closure). **If the waste cannot be positively identified, then M&W must submit a sampling and analysis plan suitable for identifying an unknown waste.**

In order to abate these violations, you must immediately evaluate the wastes listed above, in accordance with the requirements of Ohio Administrative Code Rule 3745-52-11 and this letter. You must obtain a representative sample of the wastes at the Facility, according to OAC 3745-51-20. You must evaluate all samples, through laboratory analysis (unless otherwise noted in this Notice of Violation), for all appropriate characteristics and listings and submit the results of the laboratory analysis to Ohio EPA. M&W will need to give Ohio EPA a five day advance notice of sampling activities, in order for an inspector to make arrangements to view the sampling.

Before sampling, you must submit a sampling and analysis plan, for Ohio EPA's approval, which explains, in writing, how you will obtain a representative sample of each type of waste (including the number of samples and the number of containers sampled), the sampling equipment to be used (collectors and sample containers), who will collect it, who will analyze it and how it will be analyzed (constituents and method numbers). Please refer to the following guidance document for help with writing your waste sampling and analysis plan: RCRA Waste Sampling Draft Technical Guidance. It can be found at: <http://www.epa.gov/epaoswer/hazwaste/test/pdfs/rwsdtg.pdf>

The complete analytical results from implementation of the approved sampling and analysis plan must be submitted to me as soon as they are available. Your results must document if the waste is hazardous or not and whether it is restricted from land disposal. If it is hazardous, you must explain what treatment, storage or disposal facility you will send it to. M&W must submit to me a legible copy of the manifest(s), signed by a representative of the permitted treatment, storage or disposal facility, that documents the proper off-site shipment of all its hazardous waste. If non-hazardous waste is identified, M&W must submit a copy(s) of the shipping papers used to transport the waste off-site. **If the waste is hazardous or used oil, I will determine the status of your facility's compliance with other hazardous waste laws and notify you of my findings in a separate letter.**

Ohio EPA will use the data you provide, in addition to other documentation, to make regulatory decisions concerning the waste(s) tested. The data you submit should be reviewed using a data review process, referred to as **data validation**, to confirm the validity of your data prior to submission. Data validation includes a review of the following components: laboratory test methods, laboratory data completeness, documentation of holding time(s), chain(s) of custody, and quality assurance/quality control (QA/QC) data. To confirm the validity of your data, you may use Ohio EPA's tier 1 data validation plan review form, which can be obtained from Ohio EPA's web page: http://www.epa.state.oh.us/dhwm/tier_i_data_validation_manual.html. Ohio EPA may request the documentation needed to confirm the validity of the data submitted.

Please submit, with your laboratory data, a brief narrative of each sampling event which includes: process generating the waste, point in the process the sample was obtained, sampling techniques used to obtain the sample and a description of how this sample was determined to be a representative sample of the waste tested.

In order to assist you in evaluating your wastes I have enclosed a copy of the following documents: Managing Your Hazardous Waste and The Regulation of Used Oil: Used Oil Generators. I strongly urge you to review these documents carefully and contact me immediately, if you have any questions.

FOR THE ANTWERP FACILITY:

I observed four (4) 55-gallon drums of waste at the side of the track near the grain elevators in the Paulding County town of Antwerp. Mr. Sellers explained that a locomotive was rebuilt after a piston broke in the engine. It was the #7 engine on the western end of the line. It seems that it was repaired about April of 2005. It was repaired on the tracks beside the grain elevator in Antwerp. The repair company was not AM&T, it was another company. The oil was pumped out and the intention was to reuse it. However, it turned out to be too contaminated with metal debris to reuse. Mr. Sellers opened each of the four drums to demonstrate that they contained used oil.

**1. Container Labeling
OAC Rule 3745-279-22(C)**

Containers used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil." M&W had failed to mark or label four 55-gallon drums of used oil along the tracks in Antwerp, in this manner.

In order to correct this violation, you must label the four drums with the words "Used Oil" immediately and provide me with photographic documentation that the containers have been properly labeled. Please explain to me how you will correct this violation and maintain compliance with this rule.

Mr. G. P. Bell
January 10, 2007
Page 6

As a used oil generator you are required to: store used oil in containers or aboveground tanks that are in good condition (no severe rusting, apparent structural defects or deterioration) and not leaking. These containers or aboveground tanks must be labeled with the words "Used Oil." If leaks are detected, the generator must: stop the release; contain the release; clean up and manage properly the released used oil and other materials related to the release; and, if necessary, repair or replace any leaking containers or tanks prior to returning them to service. As a generator, M&W must use a transporter with an EPA ID# to transport its used oil to a proper recycling facility. I have enclosed the following used oil fact sheets: The Regulation of Used Oil: Used Oil Generators, The Regulation of Used Oil: Used Oil Burners and Used Oil Recyclers. Please review these carefully and contact me immediately if you have any questions.

Ohio EPA General Concern:

The four 55-gallon drums at the Antwerp location are not secured and are adjacent to residential properties. Therefore, Ohio EPA strongly recommends that you have them sent by a registered used oil transporter to a registered used oil recycler immediately.

You may be able to reduce the waste your company generates. If you find ways to recycle, reduce or altogether eliminate the amount of waste that your company generates, you may be able to reduce your treatment and disposal costs and you may possibly reduce your regulatory requirements. I have enclosed a copy of Pollution Prevention Opportunities, a worksheet that can help you recognize opportunities for reducing waste and conserving energy at your business. Please review this information and contact me if you have any questions. You may want to consider the opportunity to have a pollution prevention assessment at your facility. I encourage you to schedule an assessment because there are often many opportunities for businesses to reduce waste and save money. Please feel free to contact Ohio EPA's Office of Pollution Prevention at (614)644-3469 about your interest in an assessment.

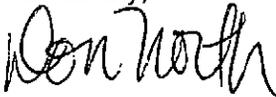
Please be aware that incandescent, fluorescent, metal halide, neon, high-intensity discharge, high-pressure sodium and mercury-vapor lamps could be hazardous waste when discarded. **Do not place hazardous waste lamps in the trash.** Fluorescent lamps may contain up to 40 milligrams (mg) of mercury, depending on the brand and manufacturer. Lamps may also contain lead and cadmium. Many lamps exhibit a characteristic of toxicity for heavy metals when disposed. I have enclosed copies of the following documents to assist you in properly managing your useless lamps: Universal Waste Rules for Handlers of Lamps and Computer, Fluorescent Lamp and Ballast Recyclers. I recommend that you review these documents carefully and contact me if you have any questions. The first document describes the rules you must follow in order to manage lamps as a universal waste. Ohio EPA may assess your compliance with these rules during a future inspection.

The Division of Hazardous Waste Management has created an electronic news service to provide you with quick and timely updates on events and news related to hazardous waste activities in Ohio. If you haven't already, we encourage you to sign up for this free service. You can find more information at the following web link: www.epa.state.oh.us/dhwm/listserv.html. Please feel free to share this information with your colleagues.

Mr. G. P. Bell
January 10, 2007
Page 7

Enclosed you will find a copy of the checklists that I completed during the inspection. Should you have any questions, please feel free to contact me at (419)373-3074. You can find copies of the rules and other information on the division's web page at www.epa.state.oh.us/dhwm. Ohio EPA also has helpful information about pollution prevention at www.epa.state.oh.us/opp.

Sincerely,



Don North
District Representative
Division of Hazardous Waste Management

/csl

Enclosures

pc: Colleen Weaver, DHWM, NWDO
Cindy Lohrbach, DHWM, NWDO
DHWM, NWDO, Maumee & Western RR, Defiance & Paulding County Files
7005 1160 0002 4567 8028

ec: Don North, DHWM, NWDO

NOTICE: Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with all applicable regulations.

7005 1160 0002 4567 8028

U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$ 3.63
Certified Fee	2.40
Return Receipt Fee (Endorsement Required)	1.85
Restricted Delivery Fee (Endorsement Required)	4.88
Total Postage & Fees	\$ 4.64



DHWM/North/cl

Sent To **MAUMEE & WESTERN RR**
 Street, Apt. No.; or PO Box No. **4301 N WESTERN AVE**
 City, State, ZIP+4 **CONNERSVILLE IN 47331**

PS Form 3800, June 2002 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**MR G P BELL VP OPERATIONS
 MAUMEE & WESTERN RAILROAD
 4301 N WESTERN AVE
 CONNERSVILLE IN 47331**

DHWM/NORTH/csl

2. Article Number
(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature
x Julie Hohman Agent Addressee

B. Received by (Printed Name) **Julie Hohman** C. Date of Delivery **1-12-07**

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7005 1160 0002 4567 8028