



State of Ohio Environmental Protection Agency

Northeast District Office

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Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

July 16, 2009

RE: HERITAGE - WTI, INC. (WTI)
LQG/TSD
OHD 980 613 541
COLUMBIANA COUNTY
NOTICE OF VIOLATION /
RETURN TO COMPLIANCE

Mr. John Peterka
Heritage-WTI, Inc.
1250 Saint George Street
East Liverpool, OH 43920

Dear Mr. Peterka:

On June 29, 2009, Ohio EPA, Division of Hazardous Waste Management (DHWM) on-site inspectors received a telephone call from Ms. Carrie Beringer of Heritage-WTI, Inc. (WTI) to self-report a violation of Ohio's hazardous waste laws and permit conditions. Because WTI was unaware of the violation until the self-report, the date of June 29, 2009, is considered the date of the non-compliance and is also considered the date of the return to compliance. Therefore, this letter serves as both a notice of violation (**NOV**) and a return to compliance (**RTC**).

The following is a description of the situation resulting in the self-report and the violation of the permit conditions.

On April 29, 2009, WTI received manifest #005080243JJK with two containers listed (#1000486593, #1000486594). One container was a loosepack of various chemicals that may be treated by incineration and the other container was designated as third-party material containing 1 part per million (ppm) mercuric chloride carrying the hazardous waste code D009. Third-party material is waste which may be received by WTI and stored on-site, but is designated for shipment to another facility for proper treatment and/or recycling/reclamation. During the labeling process, a service technician inadvertently reversed the labels applied to the two containers. This particular service technician is no longer employed by WTI.

The loosepack waste was required to be sampled at WTI. However, because the labels were reversed, the third-party container was labeled as needing a sample instead of the loosepack. Later, when another service technician opened the container for sampling, he noticed that it only held one small inner container. When this situation occurs, a sample is not collected because there would be no material left in the container to incinerate. So instead of collecting a sample, which would have required the only inner container, the service technician made notations on the sample label regarding the actual waste found, and delivered the label to the laboratory. The laboratory chemist compared the notations on the sample label to the loosepack waste profile. The notations on the sample label did not match the constituents on the waste profile. The chemist did not notice the discrepancy and released the container for incineration.

On April 30, 2009, the third-party material, mislabeled as a loosepack, was incinerated. Meanwhile, the loosepack container, mislabeled as the third-party material, was placed into storage to await shipment offsite. The mistake was found by WTI service technicians on June 24, 2009, when they were preparing to consolidate containers for a third-party shipment. At that time, WTI began investigating the situation, and ultimately determined the labels on the two containers had been reversed. Once that determination was made, Ohio EPA was verbally notified on June 29, 2009, as previously mentioned.

WTI has calculated, at worst case scenario, that 2.3 milligrams of mercury were incinerated. According to the RCRA permit issued by Ohio EPA DHWM, WTI is permitted to feed up to 443 pounds per year of mercury. The incineration of the container holding the mercuric chloride did not cause WTI to exceed the permit limit. However, WTI's permit does not allow the incineration of inorganic mercury waste managed for third-party shipment to a designated treatment facility.

VIOLATIONS

The Ohio EPA, DHWM found the following violations of permit conditions:

1. Permit Condition B.1(e), which states: The Permittee may receive and store off-site generated waste (third party waste) that will not be incinerated at the facility. This waste will be transported off-site to a permitted facility for treatment and/or reclamation. Third party waste will be managed in accordance with this permit and the approved Part B permit application.
2. Permit Condition B.3(b), which states: The Permittee shall follow the procedures described in the approved waste analysis plan found in Section C of the approved Part B permit application and the terms and conditions of this permit.

RETURN TO COMPLIANCE

WTI abated the violation and returned to compliance with regard to this NOV by retraining the laboratory chemist. The service technician that originally mis-labeled the containers is no longer employed by the facility.

Notice: Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve WTI from the responsibility of complying with all applicable hazardous waste regulations. This letter does not relieve WTI from liability for any past or present violations of the state's hazardous waste laws.

Should you have any questions, please call me at (330) 385-8421 or Patricia Natali at (330) 385-8447. You can find copies of the laws and other information on the division's web page at <http://www.epa.state.oh.us/dhwm>.

Sincerely,



Michelle Tarka
Division of Hazardous Waste Management

MT:ddw

- cc: Frank Popotnik, DHWM, NEDO
Patricia Natali, DHWM, NEDO
Carrie Beringer, Heritage-WTI, Inc.
- ec: Natalie Oryshkewych, DHWM, NEDO
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