

What A Waste (Hauler)

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Permitted Facilities/Businesses Involved

- ABC, LLC – Waste Hauler
- Acme, Inc. – Waste Hauler
- Naval Weapons Station, Yorktown, VA –
Industrial Waste Discharger

Chronology of Events

- September 2004 – U.S. Navy advises HRSD's Industrial Waste Division (IWD) of future installation of a new pretreatment system at Naval Weapons Station's NOSTRA facility (Ophthalmic Laboratory).
- January 2005 – Ultrafiltration pretreatment system is installed and operation begins. HRSD not notified but wastes are contained.
- April 2005 – HRSD staff inspects the new system.

Chronology

- September 13, 2005 – ABC, LLC notifies IWD regarding wastes from the NOSTRA lens processing operation.
- September 30, 2005 – IWD staff meets with Navy representatives and learns that NOSTRA lens processing wastes have been hauled to HRSD headworks since February 2005 by Acme, Inc. and ABC, LLC.

Chronology

- December 2005 – Revocation of Acme, Inc. Indirect Wastewater Discharge Permit
- February 2006 – Request for Reconsideration Hearing held at HRSD at the request of Acme, Inc. (Hearing Officer recommends revocation be upheld)
- March 2006 – HRSD General Manager concurs with Hearing Officer's findings

Chronology

- June 2006 – Acme, Inc. appears before HRSD Commission to appeal the permit revocation and \$133,000 administrative penalty recommendation. After hearing from Acme, Inc. legal counsel and IWD staff, Commission upholds permit revocation and approves the penalty.

Major Points

- Hauling and discharging industrial wastes, or allowing such wastes to be hauled and discharged, to an HRSD treatment plant is a violation of any HRSD Direct or Indirect Wastewater Discharge Permit.
- Prior to September 2005, HRSD was not aware that industrial wastes (lens processing wastewater and solids), had been pumped and hauled from the NOSTRA facility to HRSD's York River Treatment Plant since February 2005.
- ABC, LLC volitionally contacted HRSD regarding the NOSTRA wastes, albeit after they had hauled the wastes.

Major Points

- Acme, Inc's monthly reports and indirect discharge tickets listed the wastes from the Naval Weapons Station as "Grey Water".
- "Grey Water" is wastewater from sinks, showers, kitchens and laundries. Grey water is a major component of shipboard domestic waste (CHT). Acme, Inc's HRSD permit allows the discharge of CHT.
- When asked to define "grey water", both the Acme owner and supervisor described wastewater from sinks, showers, kitchens and laundries.

Major Points

- According to Navy representatives, the NOSTRA wastes were consistently described to the waste haulers as resulting from the processing of eyeglass lenses and were never described as “grey water”.

Conclusions

- Based on discussions with company representatives and review of documentation, IWD staff concluded there was no attempt on the part of ABC, LLC to mislead, misdirect or deceive HRSD. This does not negate the fact that the company did violate several conditions of their Indirect Wastewater Discharge Permit.

Conclusions

- IWD staff's conversations with Navy representatives, as well as review of pertinent documentation, supports the Navy's description of events.
- IWD staff concluded there was no intent on the part of the Navy to mislead, misdirect or deceive HRSD. However, the Navy was still responsible for a number of violations of their Industrial Wastewater Discharge Permit.

Conclusions

- Based on discussions with company and Navy representatives, as well as review of pertinent documentation, IWD staff concluded there was ample evidence of Acme, Inc's willful and knowing falsification of required reports and other documentation, in addition to other serious violations of their Indirect Wastewater Discharge Permit.

Enforcement Actions

- ABC, LLC
 - Failure to follow special conditions section of permit (1.0 pt for each occurrence (1)).
 - Illegal Discharge, no harm and no evidence of intent (1.0 pt for each occurrence (1)).
 - Failure to provide notification of violation within 24 hours of becoming aware (0.5 pt).
 - Total 2.5 pts.

Enforcement Actions

- Naval Weapons Station
 - Failure to follow special conditions section of permit (1.0 pt for each occurrence (14)).
 - Failure to report a changed discharge (1.0 pt).
 - Total 15.0 pts. Required show cause meeting and recommended administrative penalty of \$30,000 in February 2006. NOTE: CWA currently prohibits Federal facilities from paying such penalties.

Enforcement Actions

- Acme, Inc.
 - Falsification of required reports (4.0 pts for each occurrence (6 monthly reports and 8 indirect discharge forms))
 - Failure to follow special conditions section of permit (1.0 pt for each occurrence (16))
 - Illegal discharge, no harm caused and evidence of intent (3.0 pts for each occurrence (13))
 - Total 117.0 pts. Revocation of HRSD permit (authorized by General Manager) and recommended administrative penalty of \$133,000 in June 2006.

Litigation

- August 2006 – Acme, Inc. files suit against HRSD in City of Chesapeake, VA Circuit Court
- June 2008 – HRSD and Acme, Inc. reach a Settlement Agreement. HRSD reinstates Acme's discharge permit and retracts NOVs issued in 2005 and 2006, and 2005 permit revocation, as well as all notices of assessment of Administrative Penalties.

Litigation

- Acme acknowledges that it improperly characterized wastes from the Naval Weapons Station and agrees to pay an Administrative Penalty of \$3,750.

Lessons Learned

- Nearly two years of litigation is very expensive.
- During the course of the litigation, HRSD identified some loopholes in its Industrial Wastewater Discharge Regulations that have since been addressed.

Common Control

- Refers to practical control and decision making authority for two or more business entities by the same Person(s).

Determination as to whether two or more business entities are under Common control shall be based on the totality of the evidence, including but not limited to the involvement or ownership by Related Parties.

Related Parties

- Parties with the relationships defined in 26 U.S.C. section 267(b)

Discharge of Hauled Wastes

- A single Permit application and Permit shall be required for entities that are (1) under Common Control, (2) operating from a single physical business location or contiguous or adjacent physical business locations (including those separated only by public rights of way).

Permit Terms and Conditions

- Requirements for recording, maintaining and reporting information concerning the origin of each hauled load and identification of contributor(s) to said load.
- Requirements for permanent identification of the Indirect Wastewater Discharge Permit holder on trucks and other conveyances.

Questions?

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