



State of New Jersey  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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LISA P. JACKSON  
Commissioner

April 3, 2007

Mr. Nathan Fenno, Vice President  
NYSW Railway  
1 Railroad Avenue  
Cooperstown, NY 13326

Re: 83rd Street Facility, North Bergen, New Jersey

Dear Mr. Fenno:

This letter is to call your attention to the dangerous and troublesome conditions at the 83rd Street/Cardella solid waste facility ("Facility") in North Bergen, New Jersey. As you are aware, this Facility, among other deficiencies, lacks a fire suppression system, a proper air pollution control system, a proper stormwater management system, a proper wastewater management system, and fails to meet the international building code. All of these inadequacies implicate the most fundamental of environmental, health and safety concerns. Your failure for over a year, *i.e.*, since the Facility was constructed in the fall of 2005, to address any of these concerns represents a most basic disregard for the welfare of the community and environment.

The chronic issue of simply too much waste at the Facility has become more severe in recent days. Inspections by the New Jersey Department of Environmental Protection ("NJDEP" or "Department") and the New Jersey Meadowlands Commission ("NJMC") have revealed a dire situation of a building over-filled with solid waste. Incredibly, solid waste is *still* being accepted at the Facility even though the building is *already* filled to maximum capacity with the height of trash exceeding twenty-five (25) feet, begging the question of where such additional incoming waste will be deposited; waste has already been observed outside of the bay doors. The compacted waste in a building creates a critical and certain danger of fire. Because the building has *no* fire suppression system, *when* a fire occurs, firefighters will have to attempt to contain the fire from outside, heightening the risk to the firefighters, workers, and surrounding neighbors. For your convenient reference, I have attached photographs that depict the serious conditions at this Facility. Given this situation, it is incredible that your representative at the Facility, Joe Iadanza, can attempt to claim that the floor area inside the building is cleaned daily.

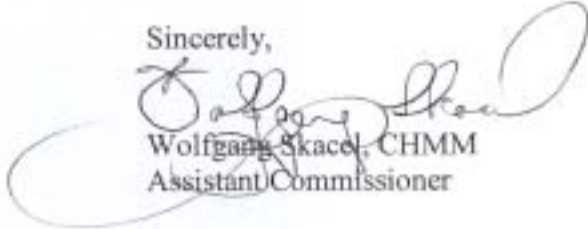
Not only does the building fail to meet the fire code, the building also fails to meet the international building code, such that the agencies have no assurance of the structural integrity of the building. The sheer volume of waste in the building and on-site has caused significant emissions of dust that are uncontrolled until an inspector arrives. Even then, as NJDEP has

repeatedly indicated to you, a misting system for this large a capacity and type of facility simply will not control the dust and airborne emissions generated and arising from the solid waste activities that are conducted thereat. Rather, an air pollution control system like that planned for the proposed solid waste facility at 43<sup>rd</sup> Street, North Bergen, is required to ensure that airborne emissions and contaminants do not pollute the environment and adversely affect the public health. Moreover, the amount of waste has exacerbated the problems with the floor drains, and the settling ponds in the rear of the building generated a pungent odor. Clearly, this Facility is not being run in an environmentally sound manner, to the potential injury of the public and environment.

Mr. Iadanza has been unable to respond in any satisfactory manner to inquiries by NJDEP regarding the excessive waste at the Facility. Specifically, Mr. Iadanza was unable to adequately explain why waste was continuing to be dumped at the Facility when railcars were unavailable for shipment out, or why railcars were unavailable. If Mr. Iadanza, the railroad's representative, cannot provide a sufficient explanation for why waste is piling up and why railcars are unavailable, perhaps Cardella Trucking Company is the appropriate company to which to make this inquiry? Mr. Iadanza's lack of information regarding or understanding of the Facility's operations suggests that this Facility is not a true rail facility.

Equally troubling was Mr. Iadanza's questioning of NJDEP's authority to inspect this Facility in light of Judge Hayden's decision. Please be reminded that, as you noted to the Third Circuit in your recent opposition papers to the State's motion for a stay/expedited appeal, the order entered February 20, 2007, and amended March 13, 2007, does not pertain to this Facility. Please be advised that NJDEP intends to continue inspecting this facility and other facilities not subject to Judge Hayden's order, pursuant to NJDEP's statutory authority to do so and, if this is a rail carrier facility, pursuant to the New Jersey Supreme Court's *Village of Ridgefield Park* decision ("Consistent with the STB's opinion in *Riverdale*, we hold that the Railroad may not deny the Village access for reasonable inspection of its maintenance facility."). Of significant concern, and indicative of the Facility's refusal to conduct its operation in an environmentally sound and safe manner, is the fact that the situation has deteriorated so rapidly from an already problematic state following Judge Hayden's order and decision. The history of this Facility's unsafe and unsound operation with the concomitant risk that it poses to the public and the risk of injury to the environment highlights, and indeed exemplifies, the need for State oversight of solid waste operations.

Sincerely,



Wolfgang Skacek, CHMM  
Assistant Commissioner

c: Christine Sanz, NJMC  
Kevin P. Auerbacher, DAG  
John McKinney, Esq.  
Cardella Trucking Co.  
Christine Petruzelli, Esq.







