

Comments on Midway Services'
Non-Hazardous Waste Hauling Permit Amendment Request
(Permit # DE WH-152, Docket 2020-P-W-0007)
July 24, 2020

Below are my comments regarding Midway Services' request to amend its existing Non-Hazardous Liquid Waste Transporters permit. They pertain to the documentation provided as part of the initial public notification of this request; no new information was provided at the electronic "virtual" public meeting listed as a hearing on July 7, 2020.

To begin, it was difficult to comment on this permit because much of the information was not actually readily available. The documentation submitted was minimal and referred to other documents, including the Clean Delaware permit accepting septic waste and other materials. Further, it was time-consuming and frustrating to have to submit a FOIA request to obtain a key document--the Oct. 11, 2016, DNREC letter to Clean Delaware that itself listed Midway Services and its acceptance of Midway's septic waste. To me, the file should have included these documents and I should not have to have taken all the actions--phone calls, emails, a FOIA request, etc.--to get the information.

That said, the hauling permit does not actually disclose any volumes, limits, or other quantities of septage that Midway can haul to Clean Delaware. The lack of specific specific limits can be construed to mean there are no limits in volume, weight, frequency of hauling, and other quantifiable measures. Although the physical realities of the size of a truck and/or tank will determine what can actually be hauled, the permit itself should state and describe specific volumes and/or weight that is allowed to be hauled per trip and per day. Further, the permit should state hours of hauling operations, including days of the week. I have to say, what was truly amazing was reading the permit and seeing that it goes into great detail about the vehicles description, including requiring a minimum of 3" high lettering, but has absolutely no limits on how much sewage/septage,

grease trap waste, cooking oil waste, or other liquid being hauled can be hauled or when.

In addition and indirectly, the Midway permit itself should reflect limits that apply to the Clean Delaware operations. However, it is no surprise that Midway has no quantified volumes or limits because the Oct. 11, 2016, DNREC letter to Clean Delaware letter accepting waste has no limits. Why doesn't DNREC have limits on Clean Delaware regarding the sources and volumes of wastes, including by type of waste? Further, why hasn't DNREC set limits or other parameters by Clean Delaware location, given it has multiple sites on Rte 30 just north of Milton and in Harbeson and elsewhere? Finally, why isn't DNREC reviewing and updating the letter and permission on a regularly scheduled basis, such as every 3 or 4 years, especially given the tremendous residential and commercial/restaurant growth in Sussex County? As written, there appears to be no limits on how much septage and other waste Clean Delaware can accept and Midway can deliver.

Further, there is nothing in the Midway permit--and by extension the Clean Delaware permit-- discussing concerns about contamination of septage or waste being hauled and applied at Clean Delaware sites. For example, why does DNREC not include requirements for random testing of waste being hauled for pathogens such as hepatitis or the coronavirus or dangerous chemicals and other contaminants such as heavy metals, illegal drugs and their components, etc. that can find their way into groundwater? It seems logical that random testing is logical, so that contaminated sewage, for example, can be redirected to wastewater treatment facilities.

In addition, another issue that came up shortly after Midway submitted its request that may affect the permit--the renaming of the primary Clean Delaware site off of Rte 30 north of Milton. That site has been called Cedar Farms and I submitted photographs of it to Ms. Potter once the new sign was placed there; hopefully they are in the record.

While Midway itself may have no involvement with or control over Clean Delaware renaming the site, the name change begs a number of questions. For example, is the name change the result of a change of ownership of Clean Delaware? If the ownership has changed, how does that affect Midway and other haulers? Further, does the name change require DNREC to take any action, such as review and revise its hauling and other files or review the Clean Delaware permit and those of its haulers?

Finally, I want to comment on DNREC's recent change in its conduct of hearings. In the month of July, DNREC has begun the practice of conducting "virtual" hearings and not allowing live, real-time comments during the hearing. While I appreciate the public record has been kept open through today, July 24, I do not understand how this hearing process has been changed and live comments are not allowed. No one argues with the need for protecting the health and safety of the public, DNREC can and should modify how it conducts hearings to provide for at least live commenting. Other entities are conducting safer and open hearings than previous wide-open public meetings. For example, in Sussex County the County Council and the Planning and Zoning Commission have recently implemented hearing practices that allow a limited number of the public to physically attend hearings while providing videoconferencing for remote viewing and listening and providing for live public comments by telephone. Although this is not as effective as having live unrestricted open meetings, because unlimited numbers of the public cannot be there and online viewers are unable to see other online viewers, they are nonetheless able to hear public comments and add to them. However, DNREC's failure to even mention that members of the public are watching and/or listening and not reading any comments received prior to convening a hearing is simply wrong. DNREC should immediately halt online/video only "hearings" for a variety of reasons ranging from the obvious, such as not being able to see or hear other members of the public to intangibles such as undermining public access to open meetings and damaging the community fabric by not allowing public interaction to undermining faith in public involvement in government decision-making.

Thank you for the opportunity to comment.

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