

1 DEPARTMENT OF NATURAL RESOURCES & ENVIRONMENTAL CONTROL
2 OF THE STATE OF DELAWARE

3 RE: Midway Services Inc.'s State of Delaware)
4 Non-Hazardous Liquid Waste Transporter)
5 Permit Amendment Application)
6 Docket #2020-P-W-0007)
7 Virtual Public Hearing)

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8 Virtual Public Hearing
9 Dial-In Number: 1-408-418-9388
Access Code: 129 788 0816

10 Tuesday, July 8, 2020
11 6:00 p.m.

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BEFORE: Lisa Vest, Hearing Officer
14 FOR THE DIVISION: Katharyn Potter, DNREC
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18 -- Transcript of Proceedings --

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1 MS. VEST: Good evening. I believe
2 that everyone is now connected and ready, so
3 we are going to go ahead and begin the
4 virtual public hearing.

5 I want to thank everybody for
6 taking their time out of their busy schedules
7 to connect with us today.

8 The date is Tuesday, July 7, 2020,
9 and we are here this evening to provide a
10 virtual platform for the State of Delaware's
11 Department of Natural Resources and
12 Environmental Control to conduct its virtual
13 public hearing on the pending non-hazardous
14 liquid waste transporter's permit application
15 for Midway Service Waste Transporters
16 tonight. (Laughter) That's a mouthful.

17 For those of you who may not know
18 me, my name is Lisa Vest, and Secretary
19 Garvin has appointed me to serve as the
20 hearing officer for tonight's proceeding.

21 For the record, this is the
22 rescheduled hearing concerning Midway's
23 pending application to amend its existing
24 permit. The original hearing date of

1 March 19, 2020 had to be canceled due to the
2 sudden implementation of Delaware's State of
3 Emergency by Governor Carney that became
4 effective as of March 13, 2020.

5 There have been changes made to
6 DNREC's standard hearing protocols
7 necessitated by that state of emergency that
8 was initiated due to the COVID-19 pandemic.

9 First and foremost, this hearing is
10 being conducted virtually. No one is here
11 together in the same room. We are all
12 participating independently at our own
13 respective locations.

14 While there are no sign-in sheets
15 to document physical attendance tonight,
16 WebEx does generate a list of those that are
17 virtually present for these proceedings so
18 that the Department can still have an
19 accurate record of those who are joining us
20 here tonight.

21 And, again, I thank everyone for
22 their interest in this matter.

23 At the conclusion of these remarks,
24 I will be turning the hearing over to Kathy

1 Potter, who is DNREC's representative in this
2 matter, so that she may make the Department's
3 presentation for the record.

4 There is still a court reporter
5 virtually present. She will prepare a
6 verbatim transcript of the hearing tonight,
7 pursuant to our statutory requirements to
8 have the same prepared. And, as always, that
9 transcript will be posted on the hearing web
10 page dedicated to this permit matter as soon
11 as it is received.

12 It should be noted for the record
13 that the applicant has declined to make a
14 presentation regarding this permit
15 application for tonight's hearing.

16 Please note that the Department
17 will not be accepting comments in realtime
18 during the hearing this evening.

19 However, DNREC wishes to ensure
20 that everyone is enabled to offer their
21 comments for inclusion into the record.
22 Therefore, as is the case in all DNREC
23 virtual hearings, the record will not close
24 at the conclusion of tonight's proceedings

1 but, rather, will remain open through
2 July 24, 2020, so again the public may have
3 an opportunity to comment for the record if
4 they wish to do so.

5 I would encourage those who have
6 logged in or who have called in this evening
7 to check out DNREC's web page for public
8 hearings under the Administrative Law Section
9 of our website for more detail concerning
10 this particular permit matter.

11 The Department's presentation,
12 along with other documentation related to
13 this matter, is posted on the Department's
14 hearing web page, and the public may gain
15 further information by reviewing the same.

16 Of course, all mechanisms
17 previously available by which to offer
18 comment remain in effect. Those are
19 electronic link, e-mail, and United States
20 Postal Service.

21 Also, briefly, the following
22 protocols will remain in place for all DNREC
23 public hearings moving forward.

24 Number one, all comment received

1 must be limited solely to the subject matter
2 of tonight's hearing. All comment pertinent
3 to that subject matter will be incorporated
4 into the record being generated.

5 Number two, in order to ensure that
6 everyone who wishes to offer comment for
7 consideration is accommodated, the record
8 shall remain open following tonight's
9 proceedings through July 7, 2020.

10 (Correction: Upon review by the Hearing
11 Officer, this should read July 24, 2020)

12 Three, there is only one authentic
13 record of this proceeding tonight, and it is
14 the official court reporter's verbatim
15 transcript.

16 Number four, the statutory purpose
17 of tonight's hearing is to build the record
18 with regard to the Department's proposed
19 actions on Midway's permit application.

20 A record consisting of the
21 transcript of the hearing tonight, any
22 written comments that may be received, all
23 exhibits, and eventually my Hearing Officer's
24 Report, will be reviewed by the Secretary

1 prior to his making a decision in this
2 matter.

3 The Secretary will ultimately issue
4 an order following his review process which
5 will contain his decision on the permit
6 matter and his reasons therefor.

7 Again, there will be no active Q
8 and A or chat session permitted during the
9 hearing tonight, and no realtime comments
10 will be accepted on this virtual platform
11 during the course of tonight's proceeding.

12 Lastly, it is important to note
13 that no decision has already been made by the
14 Department, nor will any decision be made
15 tonight with regard to this pending permit
16 matter.

17 The record is open through
18 July 24th, so, again, members of the public
19 do have ample opportunity to offer comment if
20 they wish to do so.

21 Comments may be submitted through a
22 comment link form on the hearing page, via
23 e-mail to DNRECHearingComments@delaware.gov,
24 or via the United States Postal Service at

1 the physical address for DNREC listed on the
2 hearing page and/or on the public notices
3 that have previously been issued in this
4 matter.

5 It should be noted that written
6 comments to DNREC may not be accepted using
7 any social media platform such as Twitter,
8 Facebook, YouTube, or text messaging.

9 And, again, remember that all
10 comment received either through the United
11 States Postal Service or via any of the
12 electronic mechanisms noted above, as long as
13 it is received by the Department on or before
14 July 24, 2020, will all bear the same weight
15 and will all be considered equally by
16 Secretary Garvin prior to his making a
17 decision in this matter.

18 The ultimate decision with regard
19 to this pending permit is made by Secretary
20 Garvin.

21 This formal public hearing tonight
22 acts as a mechanism to enable the Department
23 to thoroughly vet this proposed action to the
24 public and to make sure the public is aware

1 of the numerous ways by which comment may be
2 submitted for the Secretary's consideration,
3 if so desired.

4 That being said, I am going to turn
5 the platform over to Kathy Potter, who is the
6 representative for the Department, and Kathy
7 has a brief presentation. Kathy, are you
8 ready?

9 MS. POTTER: Thank you, Lisa. Good
10 evening, everyone. My name is Kathy Potter.
11 I'm an Environmental Engineer in the Large
12 Systems Branch of the Groundwater Discharges
13 Section in the Division of Water, a part of
14 DNREC, Department of Natural Resources and
15 Environmental Control.

16 Tonight we are here to discuss an
17 amendment to Midway Septic's existing
18 non-hazardous liquid waste transporter
19 permit, to include Clean Delaware Inc. as a
20 disposal site for septage.

21 My regulatory authority does not
22 include facility activities and are not part
23 of this permitting process. Tonight's
24 hearing is solely based on the transportation

1 of non-hazardous liquid waste.

2 At this time, I would like to
3 provide exhibits for the record.

4 MS. VEST: Proceed.

5 MS. POTTER: Number 1: The State
6 of Delaware regulations governing the design,
7 installation, and operation of on-site
8 wastewater treatment and disposal systems,
9 Subsection 5.3.32, titled Transportation of
10 Non-Hazardous Liquid Waste.

11 Number 2: Existing State of
12 Delaware Non-Hazardous Liquid Waste
13 Transporter Permit WH-152, issued to Midway
14 Services, Inc., issued on April 3, 2019.

15 Number 3: Permit amendment request
16 from Midway Septic Service, submitted on
17 January 8, 2020.

18 Number 4: Public notice of permit
19 amendment, published in the Delaware State
20 News and News Journal on January 12, 2020.

21 Number 5: Public hearing request
22 from Shelly Cohen received via e-mail on
23 January 24, 2020.

24 Number 5: Public hearing request

1 from Keith Steck received via e-mail on
2 January 27, 2020. (Correction: Upon review
3 by the hearing officer, this should read
4 Number 6.)

5 Number 7: State of Emergency
6 declaration, dated March 12, 2020.

7 Number 8: Proclamation of State of
8 Emergency, dated March 13, 2020.

9 Number 9: DNREC press release
10 dated March 17, 2020.

11 Number 10: DNREC press release
12 dated March 19, 2020.

13 Number 11: DNREC press release
14 dated March 20, 2020.

15 Number 12: Public notice of permit
16 amendment, published on DNREC website on
17 June 15, 2020, published in the Delaware
18 State News on June 17, 2020, published in the
19 News Journal on June 18, 2020.

20 Number 13: Printed copy of
21 tonight's Microsoft Power Point presentation.

22 As shown on the slide of the
23 presentation, this is a description of who
24 authorizes a State of Delaware Non-Hazardous

1 Liquid Waste Transporter Permit. These are
2 issued by the Groundwater Discharges Section
3 according to Delaware Code. Sections are
4 noted.

5 What are some regulatory
6 requirements? Every transportation permit
7 has regulatory authority over the vehicle
8 transport activities.

9 The transportation permit does not
10 have regulatory authority over facility
11 activities. And, again, there are some
12 sections from the same admin code.

13 The amendment for Midway is to note
14 that they are currently permitted to
15 transport septage, holding tank waste, grease
16 trap waste, and/or cooking oil waste to be
17 disposed of at the Kent and Sussex County
18 sewer systems.

19 They submitted their amendment
20 request to include Clean Delaware as a
21 disposal facility for septage. Midway was
22 permitted in their 2014 permit to use Clean
23 Delaware. At this time, the permit amendment
24 has met the regulatory requirement for a

1 permit.

2 Some general permit conditions are
3 all waste shall be transported only to the
4 authorized facilities, the wastes are not
5 going into ditches, water courses, lakes,
6 ponds, and all the waste material collected
7 shall be transported in accordance with the
8 regulations and only to the authorized
9 facilities. None of these wastes can be
10 disposed of within the state without specific
11 permission from the Department.

12 Every vehicle used for waste
13 transporting has to be certified to have a
14 leakproof tank or body, and all the hoses and
15 pumps and accessories must be maintained to
16 prevent leakage.

17 All waste transporting from truck
18 pumping and discharge in the hoses shall also
19 be fitted with an automatic shutoff valve.

20 All vehicles shall be operated and
21 maintained in compliance with State and
22 Federal regulations and not present a hazard
23 to human health or the environment.

24 The permittee is responsible for

1 the operation and maintenance of all vehicles
2 under this permit.

3 In addition, all transporters must
4 maintain a current copy of their plan for
5 prevention, control, and cleanup of
6 accidental discharges on file with the
7 Department.

8 All transporters at all times are
9 required to maintain automobile liability
10 insurance. In addition, they have to have a
11 current copy of the certificate of insurance
12 demonstrating requirement with this on file
13 with the Department.

14 Additionally, any spill greater
15 than 25 gallons shall be reported to the
16 Department within five days of the incident
17 with certain pertinent information such as
18 the date, time, location, and measures taken
19 to contain and clean the spill.

20 Thank you for your interest and
21 your participation in the permitting process.
22 My contact information is on the screen
23 as well as the hearing website.

24 MS. VEST: Okay. Thank you, Kathy.

1 Does that conclude the Department's
2 presentation?

3 MS. POTTER: Yes, that concludes my
4 presentation.

5 MS. VEST: Okay. Great. And we
6 are just going to leave that last slide up
7 for those of you that might be attending
8 virtually so that you make sure that you are
9 aware of all the docket information numbers
10 and exactly what the full name of this permit
11 consideration is if you go to look it up on
12 the website.

13 Just for the record, a little
14 housekeeping: Let the record reflect that
15 the Department exhibits, which have been
16 posted up on the hearing web page for awhile
17 now and are the same as those that Ms. Potter
18 described in her presentation, are hereby
19 entered into the formal hearing record
20 concerning this matter.

21 Ms. Potter, those exhibits as
22 posted on the hearing web page have not
23 changed in any way since their initial
24 posting; correct?

1 MS. POTTER: Correct.

2 MS. VEST: Very good. And does the
3 Department have anything further that they
4 wish to offer for the record at this time?

5 MS. POTTER: No.

6 MS. VEST: Okay. As I stated at
7 the beginning of these proceedings, the
8 applicant chose not to offer a presentation
9 concerning the permit application that is
10 pending with the Department at this time.

11 That being the case, I want to go
12 ahead and offer some concluding remarks right
13 now for those of you that are in attendance.

14 Again, thank you for taking the
15 time to come and hear the Power Point
16 presentation of the Department. We are not
17 closing the record, as I stated at the
18 beginning. Rather, we are going to extend
19 the public comment period from tonight
20 through July 24, 2020.

21 Any comment that comes in, be it
22 electronic or be it United States Postal
23 Service in writing -- because we do still
24 have people, some people in the office during

1 this time -- either way that you choose to
2 offer it, as long as it is received on or
3 before July 24, 2020, it all bears the same
4 weight. It will all be incorporated into the
5 record. And it will be given consideration
6 by Secretary Garvin prior to his making a
7 decision in this matter.

8 Thank you guys again for attending
9 tonight. Thank you, Kathy, for your
10 presentation.

11 This concludes the virtual hearing.
12 This meeting is adjourned.

13 (Concluded at 6:16 p.m.)

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CERTIFICATE

I, Lorena J. Hartnett, a Notary Public and Registered Professional Reporter, do hereby certify that the foregoing is an accurate and complete transcription of the proceeding held at the time and place stated herein, and that the said proceeding was recorded by me and then reduced to typewriting under my direction, and constitutes a true record of the testimony given by said witnesses.

I further certify that I am not a relative, employee, or attorney of any of the parties or a relative or employee of either counsel, and that I am in no way interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on this 8th day of July 2020.

Lorena J. Hartnett
Registered Professional Reporter