



STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL  
89 KINGS HIGHWAY  
DOVER, DELAWARE 19901

Office of the  
Secretary

Phone: (302) 739-9000  
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**Secretary's Order No.: 2018-WH-0058**

**RE: Application of Blessing Greenhouses and Compost Facility, Inc., for  
a State of Delaware Solid Waste Transporter Permit**

**Date of Issuance: November 1, 2018**

**Effective Date: November 1, 2018**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 7 *Del.C.* §§6003, 6004(b), 6006(4), and all other relevant statutory authority, the Department issues this Order, approving the issuance of a State of Delaware Solid Waste Transporter Permit to Blessing Greenhouses and Compost Facility, Inc. ("Blessing," "Applicant").

**BACKGROUND AND FINDINGS OF FACT**

The State of Delaware's Solid Waste Transporter Permits are issued by the Solid and Hazardous Waste Management Section of the Department's Division of Waste and Hazardous Substances, under the authority of 7 DE Admin. Code 1301, *Regulations Governing Solid Waste* ("*Regulations*"). The Applicant seeks this Permit to be authorized to transport solid waste over public roads throughout the State of Delaware, and ultimately dispose of the same at solid waste facilities located outside of the State of Delaware. The Department received Blessing's application for a State of Delaware Solid Waste Transporter Permit ("Application") on August 7, 2018, and deemed it to be administratively complete on August 9, 2018.

After finding the Application submitted by Blessing to be administratively complete, the same was placed on public notice by the Department on August 12, 2018 to open the fifteen day public comment period. During the public notice period, the Department's Solid and Hazardous Waste Management Section received a request for a public hearing regarding this Application. Accordingly, the Department held its public hearing concerning this matter at the Indian River Senior Center in Millsboro, Delaware on Tuesday, October 9, 2018. The aforementioned hearing was attended not only by Department staff and representatives of the Applicant, but also by approximately thirty-five (35) individuals from the public, who offered comment for inclusion into the formal hearing record generated in this matter. Proper notice of the hearing was provided as required by law.

Subsequent to the public hearing of October 9, 2018, the technical experts in the Department's Division of Waste and Hazardous Substances prepared a Technical Response Memorandum ("TRM") to (1) specifically address the public concerns raised at the time of the hearing; (2) provide a formal regulatory review of the Applicant's proposed permit; and (3) offer the Division of Waste and Hazardous Substances' conclusions and recommendations with regard to this pending Application for the benefit of the hearing record generated in this matter. This TRM was subsequently received for inclusion into the hearing record by Hearing Officer Lisa A. Vest on October 29, 2018.

Thereafter, Hearing Officer Vest prepared her Hearing Officer's Report ("Report"), which attached the aforementioned TRM as referenced above, and expressly incorporated the same therein. Ms. Vest's Report set forth the procedural history, summarized and established the record of information ("Record") relied on in the Report, and provided findings of fact, reasons, and conclusions that recommend that the Department approve this Application, subject to the conditions set forth in the Division of Waste and Hazardous Substances' draft Permit. The Report also addressed the public comments received in this matter, and concluded that the same did not warrant the Department's denying this Application, or delaying this permit decision to receive additional information.

## REASONS AND CONCLUSIONS

This Application is for the issuance of a State of Delaware Solid Waste Transporter Permit to Blessing Greenhouses and Compost Facility, Inc. I find that the Applicant's proposed permit would authorize Blessing to transport solid waste over public roads throughout the State of Delaware, and ultimately dispose of the same at solid waste facilities located outside of the State of Delaware. I further find that State of Delaware Solid Waste Transporter Permits are issued by the Solid and Hazardous Waste Management Section of the Department's Division of Waste and Hazardous Substances, under the authority of 7 DE Admin. Code 1301, Delaware's *Regulations Governing Solid Waste*.

In reviewing the applicable statutes and regulations, the Department's experts in the Division of Waste and Hazardous Substances have concluded that all regulatory requirements have been met by the Applicant in this matter, and that no information presented during the public hearing demonstrated the Application as deficient. Thus, the Solid and Hazardous Waste Management Section of the Division of Waste and Hazardous Substances has recommended the issuance of a State of Delaware Solid Waste Transporter Permit, in accordance with Blessing's permit Application of August 7, 2018.

The concerns voiced at the October 9, 2018, public hearing have been addressed in the Department's aforementioned TRM. With regard to the comments regarding the current compliance status of Blessing's facility in Milford, Delaware (as it relates to DNREC regulatory requirements and Sussex County zoning requirements), the same are not germane to the Application which was the subject of the hearing of October 9, 2018. The proposed permitted hauling activities will not, in any way, involve transport of solid waste either to or from the actual Blessing facility in Milford, Delaware. Thus, concerns about the compliance status of the Blessing facility in Milford fall outside the purview of this specific Application.

In response to the concerns raised about this Applicant's alleged past solid waste transportation permits and insurance coverage discrepancies, the Department states that it has no record of any such application previously submitted by Blessing to the Solid and Hazardous Waste Management Section of the Division of Waste and Hazardous Substances for a State of Delaware Solid Waste Transporter Permit. Insofar as the concerns relating to this Applicant's insurance coverage, Blessing has provided documentation to the Department to verify that the insurance coverage held exceeds the minimum requirements for a solid waste transporter permit, as set forth in Section 7 of 7 DE Admin. Code 1301, Delaware's *Regulations Governing Solid Waste*.

Concerns were also voiced at the public hearing that this Applicant may have provided false information or had neglected to disclose pertinent information concerning past environmental violations. In response, the Department's TRM notes that this Application only requires Applicants to disclose any environmental violations occurring in the last five (5) years. As for the concern that Blessing failed to report a DNREC Secretary's Order issued in 2012, again, only those actions issued in 2013 or later must be reported. While it is true that the referenced 2012 Secretary's Order was amended in 2014, that Amended Order did not affect the original issuance date, as it was not a new action, but a modification to a previously issued action falling outside of the five (5) year period requested to be reported. Therefore, Blessing did not need to disclose such information on its Application. With regard to the concerns voiced about this Applicant having not disclosed information about Sussex County zoning issues and the submission of tax payments for his facility in Milford, Delaware, again, neither of these matters are related to any environmental violations, and thus need not be included when submitting such an Application to the Department.

Additional comments suggested that DNREC should require Blessing (and all similarly permitted solid waste transporters) to provide a list of all locations from where each transporter may accept solid waste for hauling. Such comments were based on concerns that waste composition can be unknown, and as a result, contamination could be present. While the Department understands such concerns, the aforementioned TRM points out that the *Regulations* governing solid waste transport do not give the Division of Solid Waste and Hazardous Substances the authority to request customer lists from each of the hundreds of permitted State of Delaware solid waste transporters. Further, such reporting requirements, if implemented, would be difficult to oversee, as customers are frequently added and deleted from a solid waste transporter's customer base. Moreover, given the highly competitive nature of this business, such customer lists are held confidential.

With regard to the concerns that the wastes being transported may contain contaminants, the *Regulations* governing this matter dictate that solid waste transporters are responsible for understanding the type(s) of waste they are to haul, to ensure that these wastes are ultimately transported to the appropriate disposal facilities. Furthermore, solid waste disposal facilities are responsible for ensuring waste being disposed in their facilities are not prohibited via the landfill's facility permit. Such prohibitions are implemented through visual screening of incoming waste. In response to the concerns that some of the loads to be hauled may contain asbestos, the Department notes that Blessing seeks to transport dry waste under a solid waste transportation permit. This Applicant has not requested to transport the solid waste of asbestos. Solid waste landfills screen for contaminated loads, including asbestos, due to the need for special handling, and for the permit requirements placed upon the receiving landfill.

There were other comments presented at the hearing concerning an accident that occurred recently on the Chesapeake Bay Bridge and Tunnel in the State of Virginia. This accident involved a tractor which pulled a trailer owned by Blessing. Questions were raised as to why Blessing had not incurred enforcement penalties from the Department as a result of this accident.

In response to the concerns about this Virginia accident, and based on the information reviewed by the Solid and Hazardous Waste Management Section, it has been determined by the Department that a transporter other than Blessing was the vehicle operator involved in the Virginia accident. Thus, while the owner of the aforementioned trailer was Blessing, the tractor and operators were provided by another company, which was the entity ultimately held responsible for this accident.

Lastly, there were concerns raised at the public hearing of October 9, 2018, that this Applicant has not administered drug tests, nor kept appropriate maintenance and/or safety records as required. In direct response to these safety concerns, the Department then double-checked the information previously provided by the Federal Motor Carrier Safety Administration (“FMCSA”) to see whether Blessing had any such violations of record. This subsequent inquiry to FMCSA on October 22, 2018, revealed two violations related to safety events during a period of twenty-four (24) months of inspections: (1) a driver was cited for failing to record their duty status for each 24-hour period; and (2) a driver was utilized prior to the carrier receiving a negative pre-employment controlled substance screen. These violations were identified as a result of an inspection conducted by the Delaware State Police on August 30, 2018 (which occurred subsequent to the Department’s initial inquiry of August 8, 2018). Delaware’s branch of the FMCSA has stated that no further action on the part of Blessing is required in relation to these violations. Further inquiry with the FMSCA reveals the safety rating for Blessing remains “not out of service.” Thus, there is no further action which needs to be taken, by either this Applicant or the Department, concerning these matters.

I find and conclude that the Applicant has adequately demonstrated its compliance with all requirements of the statutes and regulations, as noted herein, and that the record supports approval of the Application submitted by Blessing Greenhouses and Compost Facility, Inc. Accordingly, this Order approves and directs that a State of Delaware Solid Waste Transporter Permit, consistent with the record developed in this matter, be issued by the Department in the customary form, and with appropriate conditions.

Further, the Department concludes and directs the following:

1. The Department has jurisdiction under 7 *Del. C.* §§6003, 6004, 6006(4), and all other relevant statutory authority, to make a final determination on the Application, after holding a public hearing and considering the public comments and all information contained in the Record generated in this matter;
2. The Department provided proper public notices of the Application submitted by Blessing Greenhouses and Compost Facility, Inc., and of the public hearing held on October 9, 2018, and held said hearing in a manner required by the law and regulations;
3. The Department considered all timely and relevant public comments in the Record, as established in the Report, prior to issuing this Order as its final decision;
4. The Department has carefully considered the factors required to be weighed in issuing this Permit, and finds that the Record supports approval of the Application and issuance of the same;
5. The Department shall issue to Blessing Greenhouses and Compost Facility, Inc., a State of Delaware Solid Waste Transporter Permit, which will authorize Blessing to transport solid waste over public roads throughout the State of Delaware, and ultimately dispose of the same at solid waste facilities located outside of the State of Delaware. Furthermore, said Permit shall include all conditions as set forth in the Department's draft permit, to ensure that Delaware's environment and public health will be protected from harm;
6. The Department adopts the Report and its attachments as further support for this decision;
7. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and

8. The Department shall serve and publish its Order on its internet site, and shall provide legal notice of the Order in the same manner that the Department provided legal notice of the Application.



Shawn M. Garvin  
Secretary



## **HEARING OFFICER'S REPORT**

**TO:** The Honorable Shawn M. Garvin  
Cabinet Secretary, Department of Natural Resources and Environmental Control

**FROM:** Lisa A. Vest  
Public Hearing Officer, Office of the Secretary  
Department of Natural Resources and Environmental Control

**RE:** Application of Blessing Greenhouses and Compost Facility, Inc., for a State of Delaware Solid Waste Transporter Permit

**DATE:** October 30, 2018

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### **I. BACKGROUND AND PROCEDURAL HISTORY:**

A public hearing was held on Tuesday, October 9, 2018, at 6:00 p.m. by the Department of Natural Resources and Environmental Control ("DNREC," "Department") at the Indian River Senior Center in Millsboro, Delaware, to receive comment on the application of Blessing Greenhouses and Compost Facility, Inc. ("Blessing," "Applicant") for a State of Delaware Solid Waste Transporter Permit ("Permit"). Such Permits are issued by the Solid and Hazardous Waste Management Section ("SHWMS") of the Department's Division of Waste and Hazardous Substances, under the authority of 7 DE Admin. Code 1301, *Regulations Governing Solid Waste* ("*Regulations*").

The Applicant seeks this Permit to be authorized to transport solid waste over public roads throughout the State of Delaware, with the transported wastes to ultimately be disposed of at solid waste facilities located outside of the State of Delaware. The Department received Blessing's application for a State of Delaware Solid Waste Transporter Permit ("Application") on August 7, 2018, and deemed it to be administratively complete on August 9, 2018.

After determining this permit application to be administratively complete, the Department placed the same on public notice on August 12, 2018 to open the fifteen day public comment period. During the public notice period, the SHWMS received a request for a public hearing regarding this Application. Accordingly, the hearing was scheduled for October 9, 2018.

The public hearing held in this matter was attended not only by Department staff and representatives of the Applicant, but also by approximately thirty-five (35) individuals from the public. Comment was received from the public at that hearing, and will be discussed in further detail below. Proper notice of the hearing was provided as required by law.

## **II. SUMMARY OF THE PUBLIC HEARING RECORD:**

The public hearing record consists of the following documents: (1) a verbatim transcript; (2) seven documents identified by Department staff at the public hearing of October 9, 2018 and marked accordingly by this Hearing Officer as “Department’s Exhibits 1-7”; (3) five documents in a spiral binder identified by Tim Willard, Esq., counsel for Applicant, at said hearing and marked accordingly as “Applicant Ex. 1”; (4) written comments to accompany the verbal comment offered by Ms. Gerry Maher at said hearing, marked accordingly as “Maher Ex. 1”; (5) written comments to accompany the verbal comment offered by Mr. Keith Steck at said hearing, marked accordingly as “Steck Ex. 1”; (6) a large folder containing numerous documents to accompany the verbal comment offered by Ms. Maria Payan at said hearing, marked accordingly as “Payan Ex. 1”; and (7) the Department’s Technical Response Memorandum (“TRM”) dated October 29, 2018, from Tara C. Grazier, Environmental Compliance Specialist, SHWMS, through the Division of Waste and Hazardous Substances, including, but not limited to, Jason W. Sunde, Environmental Program Administrator. The Department’s person primarily responsible for reviewing this Application, Ms. Grazier, as referenced above, developed the record with the relevant documents in the Department’s files.

The comments received at the public hearing held on October 9, 2018 were made by members of the public concerned about the current compliance status of Blessing Greenhouses and Compost's facility, located at 9372 Draper Road in Milford, Delaware, as it relates to DNREC's various regulatory requirements and Sussex County zoning requirements. Additional questions raised by the public at the time of the hearing concerned the proposed permitted hauling activities which may occur under this Permit, should the Secretary grant the same.

Other comments raised at the hearing questioned (1) whether the Applicant had provided false information to the Department in its permit application (or, had neglected to disclose pertinent information with regard to Blessing's prior environmental violations); (2) whether sufficient coverage was carried on the Applicant's insurance policy, as required by such permits issued in the State of Delaware; and (3) whether enforcement penalties should be pending against the Applicant for an accident recently occurring in the State of Virginia (which may have involved equipment owned by Blessing). Lastly, comments were made that DNREC should require Applicants such as Blessing to provide a list of all locations from where each permitted transporter may accept solid waste, so as to determine whether the loads being hauled contain contaminants (such as asbestos, etc.).

Subsequent to the public hearing of October 9, 2018, and in response to the concerns voiced by the public in this matter, the technical experts in the Department's Division of Waste and Hazardous Substances prepared a Technical Response Memorandum ("TRM") to (1) specifically address the public concerns raised at the time of the hearing; and (2) offer conclusions and recommendations with regard to this pending Application for the benefit of the hearing record generated in this matter.

In its TRM, the Department's experts in the SHWMS address the aforementioned public concerns in this matter. With regard to the comments about the current compliance status of Blessing's facility in Milford, Delaware (as it relates to DNREC regulatory requirements and Sussex County zoning requirements), the same are not germane to the Application which was the subject of the hearing of October 9, 2018. The proposed permitted hauling activities will not, in any way, involve the actual Blessing facility in Milford, Delaware. The solid waste to be hauled under this permit would be picked up by the Applicant from various locations *other* than the Blessing facility, transported over public roads throughout the State of Delaware, and ultimately be disposed of at solid waste facilities located outside of the State of Delaware. Thus, concerns about the compliance status of the Blessing facility in Milford fall outside the purview of this specific Application.

In response to the concerns raised about this Applicant's alleged past solid waste transportation permits and insurance coverage discrepancies, the Department states that it has no record of any such application previously submitted by Blessing to the Solid and Hazardous Waste Management Section of the Division of Waste and Hazardous Substances for a State of Delaware Solid Waste Transporter Permit. Insofar as the concerns relating to this Applicant's insurance coverage, Blessing has provided documentation to the Department to verify that the insurance coverage held exceeds the minimum requirements for a solid waste transporter permit, as set forth in Section 7 of 7 DE Admin. Code 1301, Delaware's *Regulations Governing Solid Waste*.

Concerns were also voiced at the public hearing that this Applicant may have provided false information or had neglected to disclose pertinent information concerning past environmental violations. In response, the Department's TRM notes that this Application only requires Applicants to disclose any environmental violations occurring in the last five (5) years. As for the concern that Blessing failed to report a DNREC Secretary's Order issued in 2012, again, only those actions issued in 2013 or later must be reported.

While it is true that the referenced 2012 Secretary's Order was amended in 2014, that Amended Order did not affect the original issuance date, as it was not a new action, but a modification to a previously issued action falling outside of the five (5) year period requested to be reported. Therefore, Blessing did not need to disclose such information on its Application. With regard to the concerns voiced about this Applicant having not disclosed information about Sussex County zoning issues and the submission of tax payments for his facility in Milford, Delaware, again, neither of these matters are related to any environmental violations, and thus need not be included when submitting such an Application to the Department.

Additional comments suggested that DNREC should require Blessing (and all similarly permitted solid waste transporters) to provide a list of all locations from where each transporter may accept solid waste for hauling. Such comments were based on concerns that waste composition can be unknown, and as a result, contamination could be present. While the Department understands such concerns, the aforementioned TRM points out that the *Regulations* governing solid waste transport do not give the SHWMS the authority to request customer lists from each of the hundreds of permitted State of Delaware solid waste transporters. Reporting requirements concerning customer lists, if implemented, would provide difficult to oversee, as customers are frequently added and deleted from a solid waste transporter's customer base. Moreover, given the highly competitive nature of this business, such customer lists are held confidential.

With regard to the concerns that the wastes being transported may contain contaminants, the *Regulations* governing this matter dictate that solid waste transporters are responsible for understanding the type(s) of waste they are to haul, to ensure that these wastes are ultimately transported to the appropriate disposal facilities. Furthermore, solid waste disposal facilities are responsible for ensuring waste being disposed in their facilities are not prohibited via the landfill's facility permit. Such prohibitions are implemented through visual screening of incoming waste.

In response to the concerns that some of the solid waste to be hauled may contain asbestos, the Department notes that Blessing seeks to transport dry waste under a solid waste transportation permit. This Applicant has not requested to transport the solid waste of asbestos. Solid waste landfills screen for contaminated loads, including asbestos, due to the need for special handling, and for the permit requirements placed upon the receiving landfill.

There were other comments presented at the hearing concerning an accident that occurred recently on the Chesapeake Bay Bridge and Tunnel in the State of Virginia. This accident involved a tractor which pulled a trailer owned by Blessing. Questions were raised as to why Blessing had not incurred enforcement penalties from the Department as a result of this accident. Based on the information reviewed by the SHWMS, it has been determined by the Department that a transporter other than Blessing was the vehicle operator involved in the Virginia accident. Thus, while the owner of the aforementioned trailer was Blessing, the tractor and operators were provided by another company, which was the entity ultimately held responsible for this accident.

Lastly, there were concerns raised at the public hearing of October 9, 2018, that this Applicant has not administered drug tests, nor kept appropriate maintenance and/or safety records as required. In direct response to these safety concerns, the Department then double-checked the information previously provided by the Federal Motor Carrier Safety Administration (“FMCSA”) to see whether Blessing had any such violations of record. This subsequent inquiry to FMCSA on October 22, 2018 revealed two violations related to safety events during a period of twenty-four (24) months of inspections: (1) a driver was cited for failing to record their duty status for each 24-hour period; and (2) a driver was utilized prior to the carrier receiving a negative pre-employment controlled substance screen. These violations were identified as a result of an inspection conducted by the Delaware State Police on August 30, 2018 (which occurred subsequent to the Department’s initial inquiry of August 8, 2018). Delaware’s branch of the FMCSA has stated that no further action on the part of Blessing is required in relation to these violations. Further inquiry with the FMSCA reveals the safety rating for Blessing remains “not out of service.” Thus, there is no further action which needs to be taken, by either this Applicant or the Department, concerning these matters.

I find that the Department's above-referenced TRM offers a detailed review of all aspects of the State of Delaware Solid Waste Transporter Permit Application submitted by Blessing, identifies all of the concerns raised at the public hearing of October 9, 2018, and responds to them in a balanced manner, accurately reflecting the information contained in the formal hearing record. Thus, the aforementioned TRM is attached hereto as Appendix "A" and expressly incorporated herein as such.

### **III. RECOMMENDED FINDINGS AND CONCLUSIONS:**

This Application is for a State of Delaware Solid Waste Transportation Permit, which, if granted, will authorize Blessing Greenhouses and Compost Facility, Inc., to transport solid waste over public roads throughout the State of Delaware, and ultimately dispose of the same at solid waste facilities located outside of the State of Delaware. I find that the State of Delaware's Solid Waste Transporter Permits are issued by the Solid and Hazardous Waste Management Section of the Department's Division of Waste and Hazardous Substances, under the authority of 7 DE Admin. Code 1301, Delaware's *Regulations Governing Solid Waste*.

In reviewing the applicable statutes and regulations, as well as weighing public benefits of this project against potential detriments, the Department's experts in the Division of Waste and Hazardous Substances have concluded that all regulatory requirements have been met by the Applicant in this matter, and have therefore recommended the issuance of this State of Delaware Solid Waste Transporter Permit. I find and conclude that the Applicant has adequately demonstrated its compliance with all requirements of the statutes and regulations, as noted herein, and that the record supports approval of the permit Application as submitted by Blessing Greenhouses and Compost Facility, Inc.

In conclusion, I recommend that a State of Delaware Solid Waste Transporter Permit, consistent with the record developed in this matter, be issued by the Department to Blessing Greenhouses and Compost Facility, Inc., in the customary form, and with appropriate conditions.

Further, I recommend the Secretary adopt the following findings and conclusions:

1. The Department has jurisdiction under 7 *Del. C.* §§6003, 6004, 6006(4), and all other relevant statutory authority, to make a final determination on the Application after holding a public hearing, considering the public comments, and all information contained in the Record generated in this matter;
2. The Department provided proper public notice of the Application submitted by Blessing Greenhouses and Compost Facility, Inc., and of the public hearing held on October 9, 2018, and held said hearing to consider any public comment that may be offered on the Application, in a manner required by the law and regulations;
3. The Department considered all timely and relevant public comments in the Record, as established in the TRM provided by the Division of Waste and Hazardous Substances;
4. The Department has carefully considered the factors required to be weighed in issuing a State of Delaware Solid Waste Transporter Permit to this Applicant, and finds that the Record supports approval and issuance of same;
5. The Department shall issue to Blessing Greenhouses and Compost Facility, Inc., a State of Delaware Solid Waste Transporter Permit, which will authorize Blessing to transport solid waste over public roads throughout the State of Delaware, and ultimately dispose of the same at solid waste facilities located outside of the State of Delaware.
6. Furthermore, the aforementioned Permit to be issued to Blessing Greenhouses and Compost Facility, Inc., shall include all conditions as set forth in the Department's draft permit, to ensure that Delaware's environment and public health will be protected from harm;
7. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and



8. The Department shall serve and publish its Order on its internet site, and shall provide legal notice of the Order in the same manner that the Department provided legal notice of the Application.



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LISA A. VEST  
Public Hearing Officer



## **APPENDIX “A”**





STATE OF DELAWARE  
DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL  
DIVISION OF WASTE AND HAZARDOUS SUBSTANCES  
SOLID AND HAZARDOUS WASTE MANAGEMENT SECTION

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**TECHNICAL RESPONSE MEMORANDUM**

To: Lisa A. Vest, Hearing Officer

Through: Marjorie Crofts, Director of Waste & Hazardous Substances  
Jason W. Sunde, Environmental Program Administrator, Solid & Hazardous  
Waste Management Section  
Karen G. J'Anthony, Environmental Program Manager, Solid & Hazardous  
Waste Management Section

From: Tara C. Grazier, Sr. Environmental Compliance Specialist, Solid & Hazardous  
Waste Management Section

Subject: Blessing Greenhouses & Compost Facility, Inc., Delaware Solid Waste  
Transporter Permit Application

Date: October 29, 2018

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The Department of Natural Resources and Environmental Control (DNREC or Department), Division of Waste and Hazardous Substances, Solid and Hazardous Waste Management Section (SHWMS), received an application from Blessing Greenhouses & Compost Facility, Inc. for a Delaware Solid Waste Transporter Permit under 7 DE Admin. Code § 1301, Delaware's *Regulations Governing Solid Waste*, Section 7.0, for the transportation of solid waste over public roads in Delaware, with the transported wastes to be disposed in solid waste facilities located outside of the State of Delaware. After determining the application administratively complete, the application was advertised by the SHWMS via public notice on August 12, 2018. During the notice comment period, the SHWMS received a request for a public hearing regarding the application on August 27, 2018, and subsequently scheduled a public hearing for October 9, 2018, to commence at 6:00 p.m. at the Indian River Senior Center in Millsboro, Delaware.

The October 9, 2018 public hearing was presided over by Lisa Vest, DNREC Public Hearing Officer. Approximately thirty-five (35) people attended the public hearing, with public comment provided by six (6) individuals. For those parties presenting public comment, several also presented their comments in writing for inclusion into the public record. The comment period regarding the Blessing Greenhouses & Compost Facility, Inc. application was closed on October

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9,2018. The SHWMS, having reviewed the hearing transcript and all comments received, consolidated comments into topic areas for response.

This Technical Response Memorandum (TRM) addresses the public comments received regarding the pending application from Blessing Greenhouses & Compost Facility, Inc., to receive a permit to transport solid waste. This TRM was prepared at the request of the presiding Hearing Officer to assist in the completion of the Hearing Officer's Report to the Secretary. In addition, this TRM provides information to help inform the final decision as regards the above-captioned permit.

SHWMS responses are provided below in *italics* for clarity.

### **Response to Public Comments**

- 1. Multiple comments and concerns were voiced regarding this Applicant's current compliance status as it relates to the ongoing DNREC regulatory issues and Sussex County zoning requirements at the physical site location of Blessing Greenhouses & Compost Facility, Inc.**

*These comments are not applicable to the solid waste transportation permit application which was the subject of the public hearing of October 9, 2018, as the proposed permitted activities will not occur at the site of Blessing Greenhouses & Compost Facility, Inc.*

- 2. A variety of questions were raised concerning this Applicant's past solid waste transportation permits and insurance discrepancies.**

*The SHWMS has no record of prior applications submitted by Blessing Greenhouses & Compost Facility, Inc., or any associated company owned by Mr. Bruce Blessing, for the transportation of solid waste. The sole application received by the SHWMS for Blessing Greenhouses & Compost Facility, Inc. was submitted on August 7, 2018. Blessing Greenhouses & Compost Facility, Inc., may have submitted applications to other DNREC programs to receive permits or approvals for its activities; however, such applications are unrelated to this permit application currently pending with SHWMS.*

*In regard to the Applicant holding appropriate vehicle insurance, Blessing Greenhouses & Compost Facility, Inc. has provided the Department with a valid certificate of insurance (COI). The COI correctly indicated DNREC to be the certificate holder, and verified that the Applicant's insurance coverage exceeded the minimum requirements as set forth in Section 7 of DE Admin. Code § 1301, Delaware's "Regulations Governing Solid Waste." As required for all solid waste transporters, the transporter must maintain valid insurance during the lifetime of any issued solid waste transportation permit. Upon expiration of the submitted COI, a new COI must be submitted to demonstrate continuing coverage.*

- 3. Several comments voiced concerns that the Applicant had provided false information to the Department on its solid waste transportation application.**

*The SHWMS solid waste transportation application requires the Applicant to disclose any environmental violation occurring in the last five (5) years. As for the concern that Mr. Blessing failed to report a Secretary's Order issued in 2012, only those actions issued in*

*2013 or later must be reported. While it is true that the referenced 2012 Secretary's Order was amended in 2014, that amended Order did not affect the original issuance date, as it was not a new action, but a modification to a previously issued action outside of the five (5) year period required to be reported. Therefore, Blessing Greenhouses & Compost Facility, Inc. did not need to disclose the information.*

*Insofar as the concerns voiced regarding the Applicant's zoning requirements and the submission of tax payments, neither are considered to be environmental violations, and thus need not be disclosed when submitting an application to transport solid waste.*

- 4. There were comments presented that DNREC should require Blessing Greenhouses & Compost Facility, Inc. (and all similarly permitted solid waste transporters), to provide a list of all locations from where each transporter may accept solid waste for hauling. Such comments were based on concerns that waste composition can be unknown, and chemical or asbestos contamination could be present.**

*The regulations of 7 DE Admin. Code § 1301, Delaware's "Regulations Governing Solid Waste" do not afford the SHWMS the authority to request customer lists from each of the over 400 permitted Delaware Solid Waste transporters. Such a requirement, if implemented, would prove difficult to oversee, for customers are frequently added and deleted from a solid waste transporter's customer base. Further, given the highly competitive nature in several of the solid waste transportation sectors, customer lists are held confidential.*

*Solid waste transporters are responsible for understanding the type(s) of waste they are to haul, so that these wastes are transported to appropriate disposal facilities. Further, solid waste disposal facilities are responsible for ensuring waste being disposed in their facilities is not prohibited via an issued landfill facility permit. Such prohibitions are implemented through visual screening of incoming waste, as well as these facilities approving waste from specific sources prior to arrival, thus often requiring analytical data be submitted prior to the receipt of disposal approval.*

*Blessing Greenhouses & Compost Facility, Inc. desires to transport dry waste under a solid waste transportation permit. It did not request to transport the solid waste of asbestos. A large part of dry waste is void of asbestos. Solid waste landfills screen for contaminated loads, including asbestos, due to the need for special handling and for the permit requirements placed upon the receiving landfill.*

- 5. There were comments presented about an accident occurring on the Chesapeake Bay Bridge and Tunnel in the State of Virginia involving a tractor pulling a trailer owned by Blessing Greenhouses & Compost Facility, Inc. The question was raised as to why Blessing Greenhouses & Compost Facility, Inc. did not incur enforcement penalties as a result of the incident.**

*On the basis of information reviewed by the SHWMS, it had been determined a transporter other than Blessing Greenhouses & Compost Facility, Inc. was the vehicle operator. Therefore, while Blessing Greenhouses & Compost Facility, Inc., owned the trailer, the tractor and its operators were provided by another company, which was the entity then being ultimately held responsible for the accident.*

**6. Concerns were voiced that Blessing Greenhouses & Compost Facility, Inc., did not administer drug tests, nor keep required maintenance and/or safety records.**

*In response to this claim, the SHWMS reviewed information provided by the Federal Motor Carrier Safety Administration (FMCSA). While the SHWMS' initial inquiry to FMCSA on August 8, 2018 did not reveal the occurrence of violations, subsequent inquiry on October 22, 2018 revealed two violations related to safety events during a period of twenty-four (24) months: (1) a driver was cited for failing to record their duty status for each 24-hour period; and (2) a driver was utilized prior to the carrier receiving a negative pre-employment controlled substance screen. These violations were identified as a result of a conditional inspection conducted by the Delaware State Police on August 30, 2018. Delaware's branch of the FMCSA stated no further action on the part of Blessing Greenhouses & Compost Facility, Inc. is required related to the violations. Further inquiry with the FMCSA reveals the safety rating for Blessing Greenhouses & Compost Facility, Inc.'s remains "not out of service."*

**Solid & Hazardous Waste Management Section Recommendation:**

The application received from Blessing Greenhouses & Compost Facility, Inc. is for the permitted transportation of solid waste in, through, and out of Delaware. The submitted application achieves the regulatory requirements as required by DRGSW and no information was presented during the public hearing demonstrating the application as deficient. As such, the SHWMS supports the issuance of a State of Delaware Solid Waste Transportation Permit to Blessing Greenhouses & Compost Facility, Inc., in accordance with the August 7, 2018 application.