



west virginia department of environmental protection

Environmental Enforcement
601 57th Street, SE
Charleston, WV 25304
Telephone: (304) 926-0470 Fax: (304) 926-0488

Harold D. Ward, Cabinet Secretary
dep.wv.gov

October 21, 2024

CERTIFICATION

SUBJECT: M&M Fiber Recyclers

APPEAL NO.: 24-10-EQB

I, Jeremy Bandy, Director, Division of Water and Waste Management, on behalf of the Department of Environmental Protection, in compliance with WV Code, Chapter 22 B-1-7 (e) as amended, do hereby certify that the enclosed is a true and accurate reproduction of the proceedings out of which the appeal arises, including documents in the Director's file relating to the matter in question. Due to reproduction problems, maps, photographs, videos, etc. may have been omitted.

A handwritten signature in blue ink that reads "Jeremy A. Bandy". The signature is written in a cursive style and is positioned above a horizontal line.

Jeremy Bandy, Director
Division of Water and Waste Management

cc: Jeremy Bandy, Director, DWWM (via email)
Brad Wright, Chief Inspector, EE (via email)
Gregory Morris, Assistant Chief Inspector, EE/WW (via email)
Laura McGee, Environmental Resources Program Manager, EE (via e-mail)
Cindy Blugerman, Environmental Resources Specialist, EE (via e-mail)
Amaris Elliott, Environmental Resources Specialist, EE (via e-mail)
Tonya Mather, Environmental Inspector Supervisor, EE/WW (via email)
Scott Driver, Chief, Office of Legal Services (via e-mail)

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Business Organization Detail

NOTICE: The West Virginia Secretary of State's Office makes every reasonable effort to ensure the accuracy of information. However, we make no representation or warranty as to the correctness or completeness of the information. If information is missing from this page, it is not in the The West Virginia Secretary of State's database.

M&M FIBER RECYCLERS

Organization Information								
Org Type	Effective Date	Established Date	Filing Date	Charter	Class	Sec Type	Termination Date	Termination Reason
GP General Partnership	8/2/2016			Domestic				

Organization Information	
Business Purpose	Capital Stock
Charter County	Control Number
Charter State WV	Excess Acres
At Will Term	Member Managed

At Will Term Years	Par Value
Authorized Shares	Young Entrepreneur
	Not Specified

Addresses	Address
Mailing Address	4602 OHIO RIVER RD HUNTINGTON, WV, 257029665
Principal Office Address	4602 OHIO RIVER RD HUNTINGTON, WV, 257029665
Type	Address

Officers	Name/Address
Partner	M&M FIBER RECYCLERS 4602 OHIO RIVER RD HUNTINGTON, WV, 257029665
Type	Name/Address

For more information, please contact the Secretary of State's Office at 304-558-8000.

Tuesday, October 15, 2024 — 8:58 AM

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west virginia department of environmental protection

Environmental Enforcement
601 57th St SE
Charleston, WV 25304
Phone: 304-926-0470
Fax: 304-926-0452

Harold D. Ward, Cabinet Secretary
dep.wv.gov

January 20, 2022

M&M Fibers
Attn: Edward Maxwell
4602 Ohio River Road
Huntington, WV 25702

Certified Return Receipt Requested
Cert # 9489 0090 0027 6362 2605 77

Eddie Maxwell:

Enclosed is the report for the compliance inspection conducted at M&M Fiber (previously WVG611438) on 12/6/2021. A copy of this report is being forwarded to the U.S. Environmental Protection Agency, Region III and the West Virginia Department of Environmental Protection's Division of Water and Waste Management.

Your immediate attention should be given to the deficiencies listed in the report summary. Failure to implement corrective action to eliminate the deficiencies may result in enforcement action as outlined in Chapter 22, Article 11 of the West Virginia Code.

Within twenty (20) days of receipt of this letter, please advise this office in writing of your plans to bring your facility into compliance. The response should be sent to the name and address of the inspector indicated on the attached Notice of Violation(s).

If you have any questions, please contact Ryan Harbison at (304) 926-0499 ext. 49771.

Sincerely,

A handwritten signature in blue ink that reads "Ryan Harbison".

Ryan Harbison
Environmental Inspector Supervisor

nlh

enclosure

cc: David Dennis, Environmental Inspector, EE/WW (via e-mail)
Shyrel Moellendick, MSSS I, EE/WW (via e-mail)

Promoting a healthy environment.

**STATE OF WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL ENFORCEMENT
INDUSTRIAL STORMWATER FACILITY INSPECTION REPORT**

Facility Name: M&M Fibers (Rt. 2 Recycling)		Permit /Reg. #:	Expiration Date:
Permittee: N/A		Unpermitted (Previously WVG611438)	N/A
Site Representative /Title: Eddie Maxwell / Owner			
Location: Huntington		Entry Date / Time: 12.6.2021 10:00 AM EST	
County: Cabell		Exit Date / Time: 12.6.2021 11:00 AM EST	
Address /Phone: 4602 Ohio River Road, Huntington, WV 25702	Regular Mail: <input type="checkbox"/> Certified Mail: <input checked="" type="checkbox"/>	Photos: <input checked="" type="checkbox"/>	Samples: <input type="checkbox"/>
	Tracking # 9489 0090 0027 6362 2605 77		

*Rating: S-Satisfactory M-Marginal U-Unsatisfactory N/A-Not Applicable N/O-Not Observed N/D-Not Determined This Visit Y-Yes N-No

FACILITY EVALUATION:

Site Review				Rating	Plans and Records				Rating
1	General Housekeeping	M	11		GPP/SWPPP Retained On Site	N/A		N/A	
2	Solid Waste Disposal	U	12		GPP/SWPPP Plans Reflect Permit Requirements	N/A		N/A	
3	Control Structures and BMPs	M	13		Employee Training Records	N/A		N/A	
4	Outside Materials Storage	U	14		Maintenance and Inspection Schedule	N/A		N/A	
5	Non-Stormwater Discharge	N	15		Site Inspection Records	N/A		N/A	
6	Oil/Water Separator	N/A	16		Spill Response Procedures/Reporting	N/A		N/A	
7	Operations and Maintenance	M	17		GPP/SWPPP Modified if Necessary	N/A		N/A	
8	Chemical Storage and/or Secondary Containment	N/A	18		Discharge Monitoring Reports	N/A		N/A	
9	Representative Sampling	N/A	19		Other	-		-	
10	Unpermitted Outfalls	Y	20		Other	-		-	

OUTLET EVALUATION: Not Applicable – No point source discharge was permitted at the time of the inspection due to a lapse in permit coverage by M&M Fibers (Previously Rt. 2 Recycling).

Outlet Number	N/A
Appearance	N/A
Marker	N/A
Receiving Stream	N/A

Overall Facility Rating:
Unsatisfactory

Compliance Outcome:
Violations Not Immediately Corrected

NOVs issued:
2

Comments: Inspection was conducted with WVDEP personnel David Dennis, Edward (Eddie) Maxwell, Owner for M&M Fibers. Note this facility was previously permitted under WVG611438. See Attached Comments for additional details.

Issued by:

David Dennis



Duly Authorized Agent / Inspector

(304) 389-7636 /

David.A.Dennis@wv.gov

Telephone / Email

Attached Comments

Site Review

1) General House Keeping, and 2) Solid Waste Disposal – Observed solid waste and degrading paper fibers throughout the property. Due to the open dump of solid waste, Notice of Violation No. SW21-06-120602-DAD was issued. The WVDEP recognizes that solid waste removal is a part of this business. WVDEP personnel observed that this facility has a solid waste disposal program in place, with a dumpster observed on site for regular disposal.

3) Control Structures and BMPs – Observed an oily sheen and paper fibers discharging into a drop inlet which is connected to the unpermitted outlet. No fibers or oil sheen were noted in the discharge at the unpermitted outlet. Therefore, this section was rated as marginal.

4) Outside Materials Storage – Due to the above-mentioned comments, this section was rated as Unsatisfactory.

8) Chemical Storage and Secondary Containment – No chemical storage was observed which should have secondary containment. Note that secondary containment is required for stored chemicals which could contaminate groundwater upon release.

10) Unpermitted Outfall – Observed an unpermitted point source discharge emanating from a drop inlet on M&M Fiber's property. Due to this observation, Notice of Violation No. W21-06-120601-DAD was issued to M&M Fibers.

Plans and Records

Plans and records were not reviewed due to the lack of Permit coverage.

Photo Attachment



12.6.2021 - View of the property operated by M&M Fiber Recycle. There was no visible point source draining the stormwater from this section of the property.



12.6.2021 – View of the property operated by M&M Fiber Recycle.



12.6.2021 – View of the property operated by M&M Fiber Recycle.



12.6.2021 – View of the property operated by M&M Fiber Recycle.



12.6.2021 – View of an unpermitted point source discharge emanating from a drop inlet in the parking lot.



12.6.2021 – View of stormwater sheet flow from the property, that did not have an observable point source emanating from M&M Fiber Recycle.



12.6.2021 – View of the property operated by M&M Fiber Recycle with a drop inlet that discharges to an unpermitted point source (previously Outlet 001).



12.6.2021 – View of stormwater with a visible oily sheen and paper fibers draining into a drop inlet which is connected to an unpermitted point source (previously Outlet 001).



12.6.2021 – View of the property operated by M&M Fiber Recycle.

STATE OF WEST VIRGINIA
Department of Environmental Protection
Environmental Enforcement
NOTICE OF VIOLATION

Violation No. W21-06-120601-DAD

To the Operator or Agent of:

Facility Name M&M Fibers (Previously Rt. 2 Recycling) Permit No. Not Permitted
Permittee M&M Fibers (Previously Rt. 2 Recycling)
Located at or near Huntington in Cabell County
Representatives Edward Maxwell Date 12.6.2021 Time: 10:00 AM EST
Mailing Address 4602 Ohio River Road, Huntington, WV, 25702

Whereas, an inspection of the above named operation by the undersigned, duly authorized agent of the Secretary, at which the following described condition or practice exists, in violation of Chapter 22, Article 11, Section(s) 8(b)(2) of the Code of West Virginia and/or Section(s) _____ of the Rules and Regulations and/or Section(s) _____ of the Permit referenced above promulgated thereunder in that you:

Make, cause or permit to be made any outlet, or substantially enlarge or add to the load of any existing outlet, for the discharge of sewage, industrial wastes or other wastes, or the effluent therefrom, into waters of this state.

- **Specifically, an unpermitted point source discharge pipe emanates from a drop inlet on M&M Fibers' property.**

The following corrective measures were discussed with you at the time of this inspection: **WVDEP personnel discussed the need to apply for permit coverage under WV/NPDES permit number WV0111457.**

Within 20 days provide a written response to the inspector named below, at the address indicated, detailing the actions taken to abate this violation. Alternatively, you may email an attached document to the inspector below with your response.

Received by:

Mail Certified - 9489 0090 0027 6362 2605 77

Signature

Title

Issued by:

David Dennis

Duly Authorized Agent / Inspector

(304) 389-7636 /
David.A.Dennis@wv.gov

Telephone / Email

Send Response to the Inspector at the address indicated below:

WV Department of Environmental Protection
EE Southwest Regional Office
601 57th Street, SE
Charleston, WV 25304

STATE OF WEST VIRGINIA
Department of Environmental Protection
Environmental Enforcement
NOTICE OF VIOLATION

Violation No. SW21-06-120602-DAD

To the Operator or Agent of:

Facility Name M&M Fibers (Previously Rt. 2 Recycling) Permit No. Not Permitted
Permittee M&M Fibers (Previously Rt. 2 Recycling)
Located at or near Huntington in Cabell County
Representatives Edward Maxwell Date 12.6.2021 Time: 10:00 AM EST
Mailing Address 4602 Ohio River Road, Huntington, WV, 25702

Whereas, an inspection of the above named operation by the undersigned, duly authorized agent of the Secretary, at which the following described condition or practice exists, in violation of Chapter 22, Article 15, Section(s) 10 (a) of the Code of West Virginia and/or Section(s) _____ of the Rules and Regulations and/or Section(s) _____ of the Permit referenced above promulgated thereunder in that you:

Created an open dump of solid waste, specifically, the WVDEP observed solid waste scattered throughout the facility which requires proper disposal.

The following corrective measures were discussed with you at the time of this inspection: **WVDEP personnel did not discuss during the inspection. All solid waste throughout the property requires proper disposal.**

Within 20 days provide a written response to the inspector named below, at the address indicated, detailing the actions taken to abate this violation. Alternatively, you may email an attached document to the inspector below with your response.

Received by:

Mail Certified - 9489 0090 0027 6362 2605 77

Signature

Title

Issued by:

David Dennis



Duly Authorized Agent / Inspector

(304) 389-7636 /

David.A.Dennis@wv.gov

Telephone / Email

Send Response to the Inspector at the address indicated below:

WV Department of Environmental Protection
EE Southwest Regional Office
601 57th Street, SE
Charleston, WV 25304



west virginia department of environmental protection

Environmental Enforcement
131-A Peninsula Street
Wheeling, WV 26003
Phone: 304-238-1220

Harold D. Ward, Cabinet Secretary
dep.wv.gov

April 01, 2024

M&M Fibers
Kenneth Maxwell
4602 Ohio River Road
Huntington, WV 25702

Certified Return Receipt Requested
Cert # 9407 1118 9956 4422 4293 33

Kenneth Maxwell:

Enclosed is the report for the reconnaissance inspection conducted at the M&M Fibers facility in Huntington, WV on April 1, 2024. A copy of this report is being forwarded to the U.S. Environmental Protection Agency, Region III and the West Virginia Department of Environmental Protection's Division of Water and Waste Management.

Your immediate attention should be given to the deficiencies listed in the report summary. The violations noted in the report, or failure to implement corrective action to eliminate those violations, may result in enforcement action as outlined in Chapter 22, Article 11 of the West Virginia Code.

Within twenty (20) days of receipt of this letter, please advise this office in writing of your plans to bring your facility into compliance. The response should be sent to the name and address of the inspector indicated on the attached Notice of Violation(s).

If you have any questions, please contact Tonya Mather at (304) 238-1220.

Sincerely,

A handwritten signature in cursive script that reads 'Tonya Mather'.

Tonya Mather
Environmental Inspector Supervisor

enclosure

cc David Dennis, Environmental Inspector, EE/WW (via e-mail)
Shyrel Moellendick, MSSS I, EE/WW (via e-mail)

**STATE OF WEST VIRGINIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ENVIRONMENTAL ENFORCEMENT
INDUSTRIAL STORMWATER FACILITY INSPECTION REPORT**

Facility Name: M&M Fibers (Rt. 2 Recycling)		Permit /Reg. #: Unpermitted - Previously WVG611438	Expiration Date: N/A
Permittee: N/A			
Site Representative /Title: Eddie Maxwell/ Manager		Entry Date / Time: 4/1/2024 10:00 AM	
Location: Huntington		Exit Date / Time: 4/1/2024 12:20 PM	
County: Cabell		Photos: X	Samples:
Address /Phone: 4602 Ohio River Road, Huntington, WV 25702	Regular Mail: - Certified Mail: X Tracking # 9407 1118 9956 4422 4293 33		

*Rating: S-Satisfactory M-Marginal U-Unsatisfactory N/A-Not Applicable N/O-Not Observed N/D-Not Determined This Visit Y-Yes N-No

FACILITY EVALUATION:

	Site Review	Rating		Plans and Records	Rating
1	General Housekeeping	U	11	GPP/SWPPP Retained On Site	N
2	Solid Waste Disposal	U	12	GPP/SWPPP Reflect Permit Requirements	N/A
3	Control Structures and BMPs	U	13	Employee Training Records	N/A
4	Outside Materials Storage	U	14	Maintenance and Inspection Schedule	N/A
5	Non-Stormwater Discharge	N	15	Site Inspection Records	N/A
6	Oil/Water Separator	N	16	Spill Response Procedures/Reporting	N/D
7	Operations and Maintenance	U	17	GPP/SWPPP Modified if Necessary	N/A
8	Chemical Storage and/or Secondary Containment	U	18	Discharge Monitoring Reports	N/A
9	Representative Sampling	N/A	19	Other	
10	Unpermitted Outfalls	Y	20	Other	

OUTLET EVALUATION: An unpermitted outlet was observed which discharges stormwater from a drop inlet located near the unloading area of the M&M Fibers facility. The outlet had a slight discharge of stormwater during the inspection, which had a visible oily appearance. No paper fibers were visible at the discharge location. The outlet was approximately 40 yards from the Ohio River during the inspection (river elevation varies). This facility is operating an outlet for the conveyance of industrial stormwater to the Ohio River without WV/NPDES Permit No. WV0111457. This violation is included in Notice of Violation No. W24-06-040101-DAD.

Outlet Number	N/A										
Appearance	N/A										
Marker	N/A										
Receiving Stream	N/D										

Overall Facility Rating:
Unsatisfactory

Compliance Outcome:
Not Immediately Corrected

NOVs issued:
1

COMMENTS: Inspection was conducted with WVDEP personnel David Dennis and Eddie Maxwell, manager of M&M Fibers.

Site Review

1. **General Housekeeping** - M&M Fibers had open dumps of solid waste throughout the property which primarily consisted of degraded paper and discarded plastic materials. This violation is included in Notice of Violation No. W24-06-040101-DAD. This section was rated Unsatisfactory.
2. **Solid Waste Disposal** - M&M Fibers had a solid waste receptacle on site that was at full capacity. Due to the open dumps of solid waste observed on the property, this section was rated Unsatisfactory.
3. **Control Structures and Best Management Practices (BMPs)** - See the General Housekeeping section of this report. The drop inlet which conveys stormwater to Outlet 001 had degraded paper fibers inside of the basin. Due to the housekeeping issues with solid waste, this section was rated Unsatisfactory.
4. **Outside Materials Storage** - Shredded paper, cardboard, and solid waste were observed to be exposed to precipitation. Due to the degraded paper and solid waste throughout the site, this section was rated Unsatisfactory.
5. **Non-stormwater Discharge** - No discharges other than stormwater were observed.
6. **Oil/Water Separator** - No oil/water separator is in use at this facility.
7. **Operations and Maintenance** - This section was rated Unsatisfactory due to the above-mentioned observations of open dumps of solid waste on the property.
8. **Chemical Storage and/or Secondary Containment** - This facility lacked sufficient secondary containment for drums of waste hydraulic oil in a storage unit. This violation is included in Notice of Violation No. W24-06-040101-DAD.
9. **Representative Sampling** - This facility is not currently covered under WV/NPDES Permit number WV0111457 and therefore does not have a sampling requirement.
10. **Unpermitted Outfalls** - M&M Fibers has an unpermitted industrial stormwater outlet that connects to the Ohio River. This violation is included in Notice of Violation No. W24-06-040101-DAD.

Permit/ Records/ Plans

11. **GPP/SWPPP Retained On Site** - M&M Fibers did not have a Groundwater Protection Plan (GPP) for review, which is a violation of West Virginia Legislative Rules Title 47 Series 58 - Groundwater Protection Regulations. This violation is included in Notice of Violation No. W24-06-040101-DAD.

Since this facility lacked Permit coverage during the inspection, the Stormwater Pollution Prevention Plan was not required to be reviewed as part of this inspection.

12. **GPP/SWPPP Reflect Permit Requirements** - These records were not available for review.
13. **Employee Training Records** - M&M Fibers did not have employee training records as required by the West Virginia Legislative Rules Title 47 Series 58 - Groundwater Protection Regulations. This violation is included in Notice of Violation No. W24-06-040101-DAD.
14. **Maintenance and Inspection Schedule** - Not applicable.

- 15. **Site Inspection Records** - M&M Fibers did not have quarterly site inspection records as required by the West Virginia Legislative Rules Title 47 Series 58 - Groundwater Protection Regulations. This violation is included in Notice of Violation No. W24-06-040101-DAD.
- 16. **Spill Response Procedures/ Reporting** - Not determined.
- 17. **GPP/SWPPP Modified if Necessary** - Not applicable.
- 18. **Discharge Monitoring Reports (DMRs)** - Not applicable.

Issued by:



David Dennis

Duly Authorized Agent / Inspector

(304) 389-7636 /
David.A.Dennis@wv.gov

Telephone / Email



Overview image of the M&M Fibers recycling facility (image taken from WV Flood Map Tool).



DSCF2897 - View of the drop inlet which discharges to an unpermitted outlet.



DSCF2898 - View of the drop inlet shown in image DSCF2897. Note the accumulation of solid waste on the grate and inside the drop inlet.



DSCF2908 - View of loose recyclables at the unloading area, prior to being baled and shipped.



DSCF2892 - View of the unpermitted outlet which emanates from a drop inlet within the M&M Fibers facility.



DSCF2893 - View of unpermitted outlet (previously outlet 001). Note a slight oily sheen was observed in the stormwater discharging from the pipe.



DSCF2891 - Overview of the unpermitted outlet area (previously outlet 001).



DSCF2896 - View of an open dump of solid waste.



DSCF2899 - View of storage of waste hydraulic oil without adequate secondary containment. These drums were observed in a storage unit on site.



DSCF2900 - View of shredded paper storage with materials spilled onto the ground.



DSCF2902 - View of an open dump of solid waste.



DSCF2904 - View of the storage of paper bales awaiting shipment.



west virginia department of environmental protection

Environmental Enforcement
131-A Peninsula St.
Wheeling, WV 26003
Phone: 304-238-1220

Harold Ward, Cabinet Secretary
www.wvdep.org

April 01, 2024

M&M Fibers
Kenneth Maxwell
4602 Ohio River Road
Huntington, WV 25702

NOTICE OF VIOLATION

RE: NOV#: W24-06-040101-DAD
Cert #9407 1118 9956 4422 4293 33

Kenneth Maxwell:

On March 26, 2024, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection at M&M Fibers facility (unpermitted - previously registered WVG611438) in Huntington, WV. During the course of this inspection, the following WV State Code ▾ violations were observed and documented:

- A. Chapter 22, Article 11, Section 8(b)(2) - M&M Fibers allowed for the discharge of industrial stormwater without a permit for one (1) discrete conveyance into the Ohio River.
- B. Chapter 22, Article 15, Section 10 (a) - M&M Fibers created or allowed an open dump of solid waste to occur on its property. Specifically, degraded paper fibers, discarded plastics, metals, and tires were observed on the site.

During the course of this inspection, the following WV Legislative Rule ▾ violations were observed and documented:

- C. 47 CSR Series 58, Section 4.7.4 - M&M Fibers failed to store drums of used hydraulic oil with adequate secondary containment.

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000023

- D. 47 CSR Series 58, Section 4.11 - M&M Fibers failed to have a Groundwater Protection Plan for review.
- E. 47 CSR Series 58, Section 4.11.7 - M&M Fibers failed to provide training of employees on their responsibility to ensure groundwater protection.
- F. 47 CSR Series 58, Section 4.11.8 - M&M Fibers failed to conduct quarterly inspections to ensure that all elements and equipment of the site's groundwater protection program are in place, properly functioning and appropriately managed.

In order to address these violations, you are requested to respond, in writing, within twenty (20) days of receipt of this Notice of Violation. This response should include remedial measures that will fully abate the above-mentioned violation. Please direct this response to David Dennis, at mailing address Environmental Enforcement, 131-A Peninsula St., Wheeling, WV 26003. Submit a PDF of this response via email to David Dennis at David.A.Dennis@wv.gov. Should you have any questions or comments, you may contact me at (304) 389-7636 between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday. Be advised that violation(s) of your WV/NPDES Permit, Legislative Rules and/or the WV Code may result in enforcement action(s) being initiated by WVDEP.

Respectfully,



David Dennis
Environmental Inspector

cc: Tonya Mather, Environmental Inspector Supervisor, EE/WW (via e-mail)

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April 22, 2024, 10:02 am

Arrived at USPS Regional Facility

CHARLESTON WV PROCESSING CENTER
April 21, 2024, 11:07 pm

In Transit to Next Facility

April 21, 2024

Departed USPS Regional Facility

PITTSBURGH PA DISTRIBUTION CENTER
April 18, 2024, 7:56 pm

Arrived at USPS Regional Origin Facility

PITTSBURGH PA DISTRIBUTION CENTER
April 18, 2024, 12:21 am

Departed Post Office

Feedback

FAIRMONT, WV 26554
April 17, 2024, 4:01 pm

USPS picked up item

FAIRMONT, WV 26554
April 17, 2024, 11:17 am

Shipping Label Created, USPS Awaiting Item

WHEELING, WV 26003
April 16, 2024, 12:42 pm

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FAQs



west virginia department of environmental protection

Environmental Enforcement
601 57th Street SE
Charleston, WV 25304
Telephone: (304) 926-0470 Fax: (304) 926-0488

Harold D. Ward, Cabinet Secretary
dep.wv.gov

June 28, 2024

M&M Fiber Recyclers
Kenneth Maxwell and Edward Maxwell
4602 Ohio River Road
Huntington, WV 25702

CERTIFIED RETURN RECEIPT REQUESTED

9489 0090 0027 6628 8714 86

NOTICE OF CIVIL ADMINISTRATIVE PENALTY

Re: Permit No.: N/A
No. of NOV's: One (1)
CAP Case No.: 240007

In accordance with West Virginia Code 22-12-10(c) and 22-15-15(c) you are hereby notified that M&M Fiber Recyclers has been assessed a proposed civil administrative penalty on the Notice of Violation dated April 1, 2024.

The proposed penalty of \$5,982.50 was calculated using the attached CAP Calculation Forms in accordance with Legislative Rule, Title 33, Series 22 and Title 47, Series 56.

Pursuant to West Virginia Code 22-12-10(c) and 22-15-15(c), you may contest the fact of the violation or the amount of the proposed penalty by requesting an informal hearing by completing and returning the enclosed card within **twenty (20) days** upon receipt of the Notice of Civil Administrative Penalty.

Pursuant to Legislative Rule 33CSR22-5.3.d and 47CSR56-5.3.d, there is provision to reduce the Civil Administrative Penalty for ability to pay a civil administrative penalty. Should you desire to pursue this provision, you should be prepared to present all necessary supportive information and/or financial documentation at the scheduled informal hearing. Incomplete information or information received more than ten (10) calendar days after the informal hearing date will not be evaluated.

If you do not request an informal hearing within the prescribed time limits, the proposed assessment becomes final and is due and payable to the West Virginia Department of Environmental Protection for deposit in the Groundwater Remediation and Solid Waste

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Reclamation and Environmental Response Funds. Payment must include a reference to the CAP Case No. and shall be mailed to the following address:

Chief Inspector
Environmental Enforcement – Mail Code #031328
WVDEP
601 57th Street SE
Charleston, WV 25304

Should you have any questions, please contact me at (304) 926-0470.

Sincerely,



David C. Simmons
Assistant Chief Inspector

Enclosures: CAP Calculation Forms

cc: Brad Wright, Chief Inspector, EE (via e-mail)
Gregory C. Morris, Assistant Chief Inspector, EE/WW (via e-mail)
Laura McGee, Environmental Resources Program Manager, EE (via e-mail)
Cindy Blugerman, Environmental Resources Specialist, EE (via e-mail)
Amaris Elliott, Environmental Resources Associate, EE (via e-mail)
Tonya Mather, Environmental Inspector Supervisor, EE/WW (via e-mail)
David Dennis, Environmental Inspector, EE/WW (via e-mail)

CAP Calculation Form

for Violations of the Solid Waste Management Act

6/21/2024

M&M Fiber Recyclers Company/Individual	N/A Permit / ID #	W24-06-040101-DAD Violation #										
Deviation from Requirement: (From Table A)	9											
Potential for Harm: (From Table B)	6	<table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <tr> <td style="text-align: right; padding-right: 5px;">Amount from Table D</td> <td style="border-bottom: 1px solid black; border-top: 1px solid black; padding: 2px 5px;">\$1,975.00</td> </tr> <tr> <td style="text-align: right; padding-right: 5px;">Sub-Total</td> <td style="border-bottom: 1px solid black; border-top: 1px solid black; padding: 2px 5px;">\$3,950.00</td> </tr> <tr> <td style="text-align: right; padding-right: 5px;">Sub-Total</td> <td style="border-bottom: 1px solid black; border-top: 1px solid black; padding: 2px 5px;">\$2,962.50</td> </tr> <tr> <td style="text-align: right; padding-right: 5px;">Sub-Total</td> <td style="border-bottom: 1px solid black; border-top: 1px solid black; padding: 2px 5px;">\$2,962.50</td> </tr> <tr> <td style="text-align: right; padding-right: 5px;">Assessment for this Violation</td> <td style="border-bottom: 3px double black; border-top: 3px double black; padding: 2px 5px;">\$2,962.50</td> </tr> </table>	Amount from Table D	\$1,975.00	Sub-Total	\$3,950.00	Sub-Total	\$2,962.50	Sub-Total	\$2,962.50	Assessment for this Violation	\$2,962.50
Amount from Table D	\$1,975.00											
Sub-Total	\$3,950.00											
Sub-Total	\$2,962.50											
Sub-Total	\$2,962.50											
Assessment for this Violation	\$2,962.50											
Negligence/Good Faith: (From Table E)	10 (2.0)											
Adjustment Factor: (From Table G)	0.75											
Unique Factor: (Actual Factor Desired - 0.00 to 2.00)	0.00											
History of Noncompliance: (No. of Enforcement Actions - Table I)	0 = #N/A											

Violation: WV State Code 22-15-10(a)

Date of Violation: April 1, 2024

Description: M&M Fiber Recyclers created an open dump. Specifically, degraded paper fibers, discarded plastics, metals, and tires were observed on the site. A Notice of Violation (NOV) for an open dump was previously issued to M&M Fiber Recyclers during a prior inspection conducted on December 6, 2021.

CAP Calculation Form

for Violations of the Groundwater Protection Act in accordance with 47CSR56

6/21/2024

<u>M&M Fiber Recyclers</u> Company/Individual	<u>N/A</u> Permit / ID #	<u>W24-06-040101-DAD</u> Violation #				
Deviation from Requirement: (From Table A)	10					
Potential for Harm: (From Table B)	6	<table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <tr> <td style="border-bottom: 1px solid black; padding: 2px;">Amount from Table C</td> </tr> <tr> <td style="text-align: center; padding: 2px;">\$2,100.00</td> </tr> <tr> <td style="border-bottom: 1px solid black; padding: 2px;">Sub-Total</td> </tr> <tr> <td style="text-align: center; padding: 2px;">\$1,680.00</td> </tr> </table>	Amount from Table C	\$2,100.00	Sub-Total	\$1,680.00
Amount from Table C						
\$2,100.00						
Sub-Total						
\$1,680.00						
Negligence/Good Faith: (From Table D)	4 (0.8)	<table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <tr> <td style="border-bottom: 1px solid black; padding: 2px;">Sub-Total</td> </tr> <tr> <td style="text-align: center; padding: 2px;">\$1,680.00</td> </tr> </table>	Sub-Total	\$1,680.00		
Sub-Total						
\$1,680.00						
Unique Factor: (Actual Factor Desired - 0.00 to 2.00)	0.00	<table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <tr> <td style="border-bottom: 1px solid black; padding: 2px;">Sub-Total</td> </tr> <tr> <td style="text-align: center; padding: 2px;">\$1,680.00</td> </tr> </table>	Sub-Total	\$1,680.00		
Sub-Total						
\$1,680.00						
History of Noncompliance: (No. of Enforcement Actions - Table F)	0 = #N/A	<table style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <tr> <td style="border-bottom: 1px solid black; padding: 2px;">Assessment for this Violation</td> </tr> <tr> <td style="text-align: center; padding: 2px;">\$1,680.00</td> </tr> </table>	Assessment for this Violation	\$1,680.00		
Assessment for this Violation						
\$1,680.00						

Violation: WV Legislative Rule 47CSR58 Section 4.7.4

Date of Violation April 1, 2024

Description: M&M Fiber Recyclers failed to store drums containing materials with the potential to contaminate groundwater so that spills and leaks were contained. Drums of used hydraulic oil were stored without adequate secondary containment.

CAP Calculation Form

for Violations of the Groundwater Protection Act in accordance with 47CSR56

6/21/2024

<u>M&M Fiber Recyclers</u> Company/Individual	<u>N/A</u> Permit / ID #	<u>W24-06-040101-DAD</u> Violation #		
Deviation from Requirement: (From Table A)	6			
Potential for Harm: (From Table B)	6	<table style="margin-left: auto; margin-right: auto;"> <tr><td style="text-align: right;">Amount from Table C</td></tr> <tr><td style="text-align: right; border-top: 1px solid black; border-bottom: 1px solid black;">\$1,675.00</td></tr> </table>	Amount from Table C	\$1,675.00
Amount from Table C				
\$1,675.00				
Negligence/Good Faith: (From Table D)	4 (0.8)	<table style="margin-left: auto; margin-right: auto;"> <tr><td style="text-align: right;">Sub-Total</td></tr> <tr><td style="text-align: right; border-top: 1px solid black; border-bottom: 1px solid black;">\$1,340.00</td></tr> </table>	Sub-Total	\$1,340.00
Sub-Total				
\$1,340.00				
Unique Factor: (Actual Factor Desired - 0.00 to 2.00)	0.00	<table style="margin-left: auto; margin-right: auto;"> <tr><td style="text-align: right;">Sub-Total</td></tr> <tr><td style="text-align: right; border-top: 1px solid black; border-bottom: 1px solid black;">\$1,340.00</td></tr> </table>	Sub-Total	\$1,340.00
Sub-Total				
\$1,340.00				
History of Noncompliance: (No. of Enforcement Actions - Table F)	0 = #N/A	<table style="margin-left: auto; margin-right: auto;"> <tr><td style="text-align: right;">Assessment for this Violation</td></tr> <tr><td style="text-align: right; border-top: 1px solid black; border-bottom: 3px double black;">\$1,340.00</td></tr> </table>	Assessment for this Violation	\$1,340.00
Assessment for this Violation				
\$1,340.00				

Violation: WV Legislative Rule 47CSR58 Section 4.11

Date of Violation April 1, 2024

Description: M&M Fiber Recyclers failed to have a Groundwater Protection Plan. Regular groundwater training sessions and quarterly groundwater inspections were not occurring.

M&M Fiber Recyclers Photo Log



Overview of the recycling facility (image taken from WV Flood Map Tool).



4/1/2024 - DSCF2896 - View of an open dump of solid waste.

M&M Fiber Recyclers Photo Log



4/1/2024 - DSCF2902 - View of an open dump of solid waste.



4/1/2024 - DSCF2899 - View of storage of waste hydraulic oil without adequate secondary containment.



July 9, 2024

Dear Environmental Enforcement:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6628 8714 86.

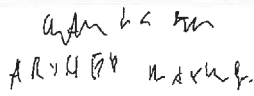
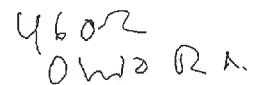
Item Details

Status:	Delivered, Left with Individual
Status Date / Time:	July 5, 2024, 5:21 pm
Location:	HUNTINGTON, WV 25702
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Shipment Details

Weight:	2lb, 3.2oz
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Recipient Signature

Signature of Recipient:	
Address of Recipient:	

Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004



Elliott, Amaris L <amaris.l.elliott@wv.gov>

RE: M&M Fiber Recyclers - Order No. MM-24-23 and CAP

1 message

Marissa Grace Nortz <Marissa.Nortz@steptoe-johnson.com>

To: "Simmons, David C" <david.c.simmons@wv.gov>, Amaris L Elliott <amaris.l.elliott@wv.gov>, Brittany A Hunt <Brittany.A.Hunt@wv.gov>, Cindy Blugerman <cindy.blugerman@wv.gov>, Laura E McGee <Laura.E.McGee@wv.gov>
Cc: "Wright, Brad M" <brad.m.wright@wv.gov>

Wed, Jul 24, 2024 at 10:09 AM

All,

I'm just following up to get this meeting scheduled. If there are a few dates that could be proposed, please let me know and I'll confirm availability with my client.

Thanks,
Marissa

From: Simmons, David C <david.c.simmons@wv.gov>

Sent: Friday, July 12, 2024 8:47 AM

To: Amaris L Elliott <amaris.l.elliott@wv.gov>; Brittany A Hunt <Brittany.A.Hunt@wv.gov>; Cindy Blugerman <cindy.blugerman@wv.gov>; Laura E McGee <Laura.E.McGee@wv.gov>; Marissa Grace Nortz <Marissa.Nortz@steptoe-johnson.com>

Cc: Wright, Brad M <brad.m.wright@wv.gov>

Subject: Re: M&M Fiber Recyclers - Order No. MM-24-23 and CAP

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you trust david.c.simmons@wv.gov.

Hi Marisa, Brittany will contact you shortly on the meeting. This email suffices for your official request. As far as the appeal process goes, you do have thirty days to appeal but the clock starts after you get the civil administrative penalty hearing decision following our meeting.

Thanks,

8/14/24, 10:17 AM

Dave

State of West Virginia Mail - RE: M&M Fiber Recyclers - Order No. MM-24-23 and CAP

On Thu, Jul 11, 2024 at 3:19 PM Marissa Grace Nortz <Marissa.Nortz@steptoe-johnson.com> wrote:

Dave,

Today I was retained by M&M Fiber Recyclers regarding Order No. MM-24-23 and the associated Civil Administrative Penalty (CAP Case No. 240007).

We would like to request the informal hearing regarding the CAP. The documents they sent me do not have the card attached to them for formally submitting the request for a hearing, so if you need me to send that in can you send it to me?

I'm hoping we can resolve this at the informal hearing and avoid the need to appeal the matter to the Environmental Quality Board, but because that appeal will be due by 8/2, hopefully we can squeeze this informal hearing in before then. Based on my conversations with Brittany earlier for scheduling another matter, I know things are tight.

Please let me know if this email can serve as the request for the informal CAP hearing or whether you need me to submit something more formal for this one.

Thanks,
Marissa

Marissa Grace Nortz

Member
Steploe & Johnson PLLC
P.O. Box 1588, Charleston, WV 25326-1588
Overnight

707 Virginia Street, East, Charleston, WV 25301
O: 304-353-8156 F: C: 304-319-2465

Marissa.Nortz@Steptoe-Johnson.com
www.steptoe-johnson.com

000036



Step toe & Johnson PLLC Note:

This e-mail and any attachments are confidential and may be protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of this e-mail or any attachment is prohibited. If you have received this e-mail in error, please notify us immediately by returning it to the sender and delete this copy from your system. Thank you for your cooperation.

Step toe & Johnson PLLC Note:

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304-353-8000
Fax 304-933-8704
www.stepToe-johnson.com

Writer's Contact Information
Marissa.Nortz@StepToe-Johnson.com
304-353-8156

August 27, 2024

VIA ELECTRONIC MAIL

Laura McGee
Hearing Officer
Environmental Enforcement
West Virginia Department of Environmental Protection
601 57th Street SE
Charleston, WV 25304

**Re: M&M Fiber Recyclers Response to Civil Administrative
Penalty Case No. 240007 and Unilateral Administrative
Order No. MM-24-23**

Ms. McGee:

On June 28, 2024, M&M Fiber Recyclers ("MMFR"), received Unilateral Administrative Order No. MM-24-23 ("Order") and Civil Administrative Penalty ("CAP") Case No. 24007 from the West Virginia Department of Environmental Protection ("WVDEP"). It is MMFR's understanding that this Order and CAP arise from WVDEP's inspection of MMFR's facility on April 1, 2024.

On August 14, 2024, an informal hearing was held to discuss the CAP and Order. At the conclusion of that hearing, MMFR requested the opportunity to provide a written response to the CAP that summarized the discussion during the informal hearing and provide all requisite documents referenced during that hearing. This correspondence represents MMFR's timely submittal of that information.

I. MMFR's Response to CAP Case No. 24007

WVDEP's CAP proposes a penalty of \$5,982.50 as a result of the alleged violations observed by WVDEP during its April 1, 2024, inspection of the MMFR facility. The CAP alleges the following violations:

- The creation of an open dump in alleged violation of W. Va. Code 22-15-10(a) specifically relating to degraded paper fibers, discarded plastics, metals, and tires for a total penalty of \$2,962.50.
- Failure to store drums of used hydraulic oil with adequate secondary containment in alleged violation of W. Va. Code R. § 47-58-4.7.4 for a totally penalty of \$1,680.00; and

- Failure to have a Groundwater Protection Plan in accordance with W.Va. Code R. § 47-58-4.11 for a total penalty of \$1,340.00

The West Virginia Code of State Rules provides penalty assessment procedures, including factors that should be considered in the penalty calculation:

7.1. The Secretary shall calculate a civil administrative penalty by taking into account the seriousness of the alleged violation, negligence or good faith on the part of the violator, the type of facility, and any history of noncompliance by the violator.

7.1.a. **Seriousness of Violation.** The Secretary shall take into account the seriousness of the violation by assigning a rating for the extent of deviation from the requirement of the statute, rule, order, or permit condition in accordance with Table A and a rating for the potential harm which may have resulted from the alleged violation in accordance with Table B. These “seriousness of the violation” ratings shall be used to determine the base penalty amount of the civil administrative penalty assessment through the use of Tables C and D. Table C shall be used for hazardous waste violations. Table D shall be used for solid waste violations.

7.2. **Negligence/Good Faith.** The Secretary shall take into account the negligence or good faith which the violator displayed with regard to the alleged violation by assigning a rating in accordance with Table E. The negligence/good faith rating shall be used to determine the multiplying factor to be applied to the base penalty amount through the use of Table F.

7.3. **Adjustment Factor.** The Secretary shall take into account the type of facility by assigning an adjustment factor in accordance with Table G. The subtotal calculated pursuant to subsections 7.1 and 7.2 shall be multiplied by the adjustment factor.

7.4. **“Unique” Factors.** Should the violation in question involve an actual release to the environment or harm to human health or involve a chemical that is persistent or bioaccumulative, the associated civil administrative penalty may be multiplied by a factor of up to 2.0.

7.5. **History of Noncompliance.** The Secretary shall take into account the violator’s history of noncompliance by determining the number of previous enforcement actions (administrative, civil, or criminal) which have been taken against the facility during the twenty-four (24) months prior to the violation. Those enforcement actions which were withdrawn, dismissed, or vacated shall not be included in this determination. The number of previous enforcement actions shall be used to

determine the dollar amount to be added to the penalty through the use of Tables H and I. Table H shall be used for hazardous waste violations. Table I shall be used for solid waste violations.

7.6. The civil administrative penalty shall be calculated by multiplying the base penalty amount (established from the seriousness of violation pursuant to subsection 7.1) by the multiplying factor (established from the negligence/good faith ratings pursuant to subsection 7.2), multiplying that product by the adjustment factor (established from the adjustment factor pursuant to subsection 7.3), multiplying by the “unique” factor, if applicable (established pursuant to subsection 7.4), and then adding to that product a dollar amount (established from the history of noncompliance pursuant to subsection 7.5) through the use of Table J.

7.7. The civil administrative penalty assessed may not exceed the maximum assessments prescribed by the Acts. The maximum assessment for hazardous waste violations shall not exceed seven thousand five hundred dollars (\$7,500) per day per violation, up to a maximum of twenty-two thousand five hundred dollars (\$22,500) total penalty. The maximum assessment for solid waste violations shall not exceed five thousand dollars (\$5,000) per day per violation, up to a maximum of twenty thousand dollars (\$20,000) total penalty.

W. Va. Code R. § 33-22-7. MMFR has reviewed WVDEP’s analysis of the alleged violation, including its application of the penalty factors discussed above, and has provided the following response as previously discussed during the August 14, 2024, informal hearing.

1. Open Dump Allegations

A. Facts Surrounding Alleged Violations

The first penalty assessment within the CAP relates to the alleged open dump at MMFR’s facility and seeks to impose a penalty of \$2,962.50. *See CAP at pg.3.*¹

This alleged violation references “degraded paper fibers, discarded plastics, metals, and tires.” Prior to MMFR’s operation of this facility, it was operated by Rt. 2 Recycling, which, upon information and belief, processed paper, cardboard, plastic, and metals. When that facility was closed through bankruptcy proceedings, MMFR reopened and only focuses on paper and cardboard recycling. It does not bring in plastics, metals, or other forms of solid waste.

MMFR believes that the waste referenced in WVDEP’s CAP was left behind by the former Rt. 2 Recycling facility, as there are metals and plastics included in that waste that are not a part

¹ The alleged open dump violation at issue in this response is in reference only to those pictures identified on pages 6 and 7 of the CAP.

of the current MMFR operations. Prior to this waste being brought to MMFR's attention, MMFR was unaware of its presence. MMFR believes that these wastes should have been addressed by the prior facility and should have been located and addressed through a facility post-closure inspection by WVDEP.

Regardless, MMFR has addressed 99% of the waste at issue. *See Attachment A.* MMFR has overcome hurdles in addressing this waste, as its facility was hit by a tornado on June 5, 2024, and then struck by lightning on June 23, 2024. The tornado led to more material being scattered across the property that had to be addressed and the lightning strike caused technical malfunctions to MMFR's operations that had to be immediately addressed so that business could operate. As such, MMFR could not address this removal as quickly as it originally intended but has nonetheless addressed this waste even though it believes the cleanup should have been required of the former operations.

While MMFR has addressed 99% of this waste, there is still a small amount that remains on site and is continuing to be addressed. MMFR believes that the remainder of this material will be removed in approximately three (3) weeks, which will be detailed in the plan of corrective action prepared in accordance with the Order.

B. MMFR's Analysis of the Penalty Calculation

The first factor in WVDEP's matrix is the Deviation from Requirements wherein WVDEP gave MMFR a 9. Under the regulation, a range of 7-9 is to indicate "the violator has completed almost none of the requirements of the statute, rule, regulation, order, or permit condition in question. However, some aspects of the requirements clearly were accomplished, or the requirements were completed in most, but not all, areas of the facility." W. Va. Code § 33-22, Table A.

As discussed above, the majority of this waste was left behind by a prior facility operation and a prior permittee. That operation should have been ordered to clean this area up as part of its closure inspection with WVDEP. MMFR has almost completely addressed this issue, despite not causing the majority of the alleged dumped waste. MMFR believes its rating should be reduced from 9 to 2.

The next factor is the potential for harm, wherein WVDEP gave MMFR a 6. Under the regulation, a range of 4-6 for this factor indicates a violation is of an "administrative or a physical nature and may result in a minor potential for harm to human health or the environment (e.g. material being improperly handled/stored and is relatively stable or readily remediated, report does not contain necessary information or a specific nature, necessary environmental controls are present but not maintained). *Id.* at Table B.

MMFR believes that this rating should be reduced from a 6 to a 4, as the harm here is minimal and does not warrant the highest ranking. Further, MMFR has already addressed 99% of this waste. Here, the revised penalty should be \$350.

The next factor is Negligence/Good Faith, where the Agency gave MMFR the maximum negligence rating of 10 for a penalty multiplying factor of 2. For this rating, the Regulation states “The violation is a result of a complete disregard for the requirement in question or the violator failed to respond to a previous enforcement action pertaining to the same requirement.” *Id.* at Table E. Neither of those statements match the information available to MMFR.

First, MMFR did not cause the majority of this waste and it should have been addressed by the prior permittee. MMFR has since and is currently finalizing cleanup of this waste. Further, there is no evidence that this alleged dump source was previously to be addressed by MMFR and MMFR just ignored that order.

In the Unilateral Order that was provided to MMFR in this matter, reference is made to a similar open dump Notice of Violation from 2021; however, the picture evidence from that inspection does not address the same pictures that make up the alleged 2024 violation. Thus, there is no “enforcement history” that is supported by WVDEP’s documentation. MMFR believes that this should be reduced from a rating of 10 to a rating of 3 for a multiplying factor of 0.7. This would result in a penalty of \$245.

The next factor for consideration in the penalty matrix is the adjustment factor. This factor, which is rated at 0.75, is based on what type of facility MMFR is. MMFR agrees with WVDEP’s assessment that the adjustment factor should be 0.75. As such, based on MMFR’s calculation of the penalty, the penalty for this violation should be \$183.75.

The final two factors to consider are the “unique factor” and the “history of noncompliance.” MMFR agrees with WVDEP that these factors should be rated at 0.

As such, MMFR believes that the appropriate penalty calculation for this alleged violation is \$183.75.

2. Storage Drum Allegations

WVDEP has alleged that “MMFR failed to store drums containing materials with the potential to contaminate groundwater so that spills and leaks were contained. Drums of used hydraulic oil were stored without adequate secondary containment” in violation of W. Va. Code R. § 47-58-4.7. MMFR was assessed a penalty of \$1,680 for this alleged violation.

WVDEP asserts that MMFR is required to have secondary containment for these drums and allegedly relies on W. Va. Code R. § 47-58-4.7 in support of this violation; however, this regulation makes no mention of secondary containment:

4.7.d. Drums, containing materials that have the potential to contaminate groundwater, shall be stored so that spills and leaks are contained. Measures shall be taken to control drum deterioration and/or damage due to handling.

W.Va. Code R. § 47-58-4.7.d. Nothing within this section requires that MMFR maintain secondary containment for these drums. Further, WVDEP has failed to allege how the storage of these drums in: (1) an enclosed building; (2) on skids; (3) on a concrete pad without a floor drain; and (4) with provided protection from the elements “have the potential to contaminate groundwater.” There has been no demonstration that MMFR’s storage practices present a harm to groundwater. There has been no demonstration that these drums were leaking or deteriorating so as to present a threat of leaks. There is no statute or regulation that dictates that MMFR cannot have a building door open while working. Finally, there is no statute or regulation that dictates that these drums should be “placed further back in a corner.” Simply put, no violation occurred here, and this violation and penalty must be completely rescinded.

While MMFR violated no statute or regulation through the storage of the drums at issue, MMFR has nonetheless taken the initiative to dispose of these drums. The invoice indicating proper disposal is attached hereto as *Attachment B*.

3. Groundwater Protection Plan Allegations

A. Facts Surrounding Alleged Violation

The final violation that makes up this CAP is the alleged failure to have a Groundwater Protection Plan and to conduct regular trainings and quarterly groundwater inspections. WVDEP has assessed a penalty of \$1,340 for this alleged violation.

MMFR has been working with WVDEP since approximately 2021 to obtain the required permit for this facility. While communication issues plagued both MMFR and WVDEP permitting in getting this permit out the door, MMFR was finally able to get an appropriate permit for its facility in July, which included the required Groundwater Protection Plan. *See Attachment C.*² As such, MMFR has been attempting to timely obtain all the required permits and approvals from WVDEP and has finally completed that task.

B. MMFR’s Analysis of Penalty Calculation

WVDEP assessed MMFR a rating of 6 for deviation of requirement. MMFR believes this rating should be a 2 under the 1-3 explanation of the Rule “The violator had completed nearly all requirements of the statute, rule, regulation, order, or permit condition in question. However, there were some aspects of the requirements which were clearly not accomplished, or the requirements

² The approved Groundwater Protection Plan has also been included with Attachment C for purposes of addressing this alleged violation.

were completed in most, but not all, areas of the facility.” W. Va. Code R. § 33-22, Table A. In this instance, MMFR had been working with WVDEP to get the required Permit, which included preparation and approval of the requisite Groundwater Protection Plan.

WVDEP assessed MMFR a rating of 6 for Potential for Harm. MMFR believes this should be reduced to a rating of 2 as this violation is purely of an administrative nature. With this revised rating, this sub penalty should be \$240.

WVDEP gave MMFR a negligence rating of 4. MMFR believes this should be reduced to a 2, as MMFR was navigating the permitting process with WVDEP to get both the permit and the Plan in place. MMFR agrees with WVDEP’s assessment that the unique factor and history of noncompliance should be rated at a 0. With this new rating, the multiplying factor should be 0.6, which takes the penalty to \$192.

WVDEP’s has proposed a total penalty of \$5,982.50 for three violations. That said, based on MMFR’s analysis of all of the alleged penalties and the factors that lead to those penalties, MMFR believes the total CAP for this matter should be \$375.75.

II. MMFR’s Response to Unilateral Administrative Order

While the primary purpose of the informal hearing was to cover the CAP, MMFR did want to also briefly address the Unilateral Order and its Order for Compliance section. MMFR is taking actions to comply with this Order and has prepared a proposed plan of corrective action as a separate correspondence in this matter.

MMFR provides the following response to the Order’s “Order for Compliance:”

- “Within twenty (20) days of the effective date of this Order, MMFR shall electronically submit all information requested by the WVDEP DWWP Permitting Section which is necessary for this issuance of WV/NPDES Water Pollution Control Permit No. WV0111457, Registration No. WVG612812.”
 - MMFR has satisfied this obligation and has been issued the requisite permit. *See Attachment C.*
- “Within twenty (20) days of the effective date of this Order, MMFR shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when MMFR will achieve compliance with all pertinent laws and rules. The Plan of Corrective Action shall include, but shall not be limited to, provisions for providing proof of proper disposal of all solid waste contributing to the aforementioned open dump.”

- The required POCA has been prepared and is being submitted to WVDEP through separate correspondence.
- As discussed during the informal hearing, MMFR has disposed of the waste related to the open dump allegations through its normal solid waste disposal practices and does not have unique invoices related to this specific disposal. However, MMFR was able to reach out to its waste servicer, Republic Services, Inc., and obtain a Tonnage Report that indicates how much waste was disposed within the specific dumpster. As indicated on this tonnage report, it is clear when the additional waste was disposed of, as MMFR's tonnage increases during those months. MMFR averages approximately 4.10 tons during normal operations, and for those months where the additional waste was disposed of those numbers were:
 - 15.12 tons -5/30/24 dumpster
 - 17.27 tons – 6/17/24 dumpster
 - 18.70 tons – 7/02/24 dumpster
 - 10.65 tons – 8/9/24 dumpsterThis tonnage report is attached hereto as *Attachment D*.
- MMFR is finalizing removal of the remainder of this waste and expects complete removal within three (3) weeks of WVDEP's approval of its POCA. Upon completion of this final removal, MMFR will request another tonnage report from Republic to indicate this final disposal.

III. Conclusion

MMFR strives to operate an environmentally friendly and compliant recycling facility. MMFR has taken action to address the alleged violations and has already completely remedied 99% of WVDEP's alleged violations.

MMFR appreciates the opportunity to discuss the CAP and Order with WVDEP and to provide this written response. If there is anything additional that MMFR can provide WVDEP on this matter, please do not hesitate to contact me at your earliest convenience.

Sincerely,



Marissa Nortz

Counsel to the M&M Fiber Recyclers

August 27, 2024
Page 9

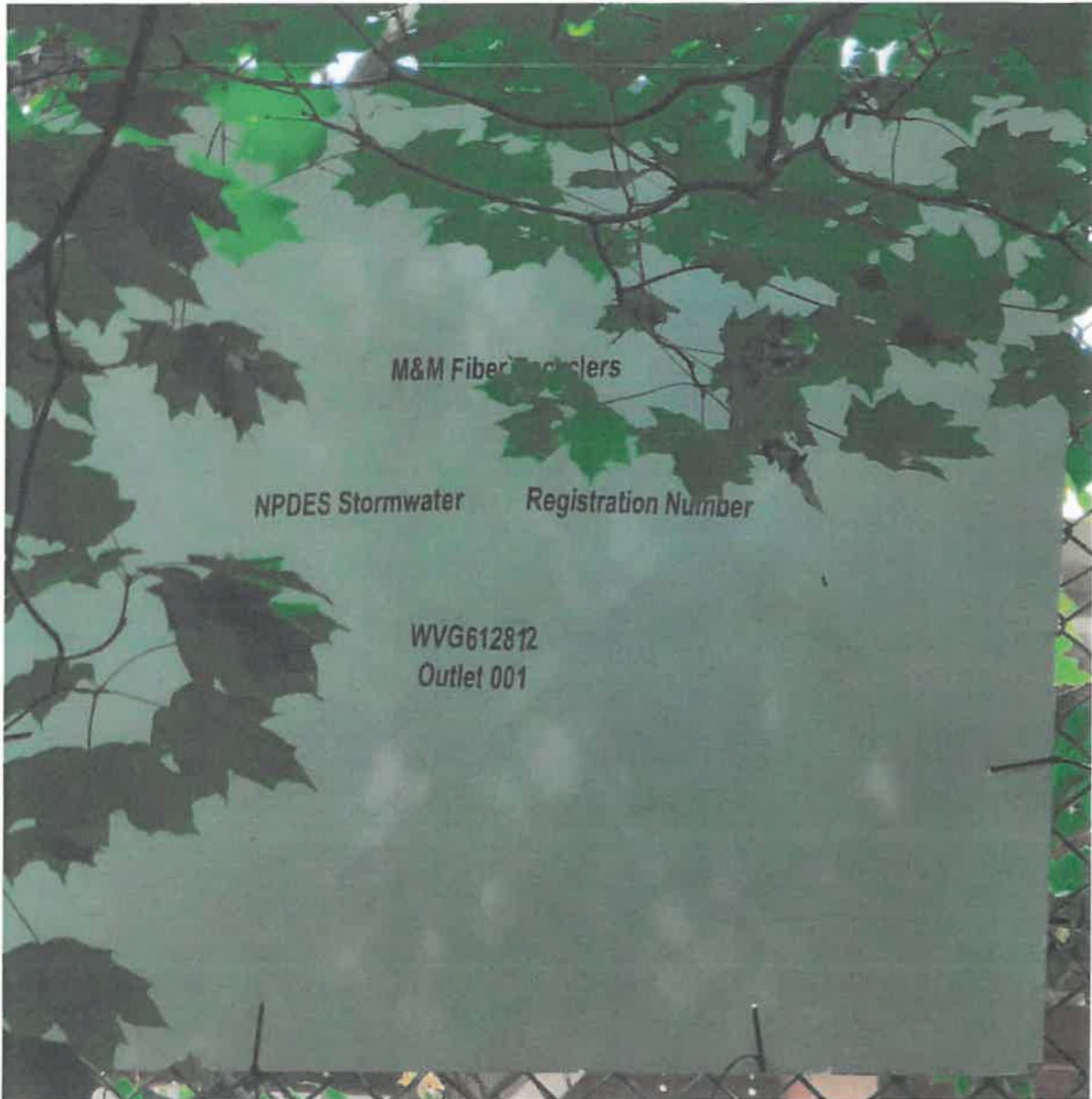
ATTACHMENT A

Alleged Open Dump Cleanup Efforts









August 27, 2024
Page 14

ATTACHMENT B

Drum Disposal Invoice



ECO-FIRST, Inc.

P.O. Box 390
LESAGE, WV 25537

INVOICE

Date	Invoice #
7/12/2024	24-17253

Bill To
M & M Filters Attn. Ken Maxwell 4602 Ohio River Road Huntington, WV 25702

Project Description
Unusual Waste Transport/Disposal Hydraulic Oil and Water 4602 Ohio River Road Huntington, WV 25702

P.O. Number	Terms	Due Date
Verbal - K. Maxwell	1hr on receipt	7/12/2024

Quantity	Description	Rate	Amount
	Service date: 07-11-24 8 Transportation and Recycling of Non RCRA Regulated, Non DDT Regulated Hydraulic Oil and Water Liquid Waste (per drum)	15.00	120.00

We appreciate your business! FEIN # 55-075-9888 Please contact us for all of your environmental and safety needs by calling toll free 1-877-736-7303 or visit us on the internet at www.eco-first.com	Subtotal	\$120.00
	Sales Tax	\$0.00
	Balance Due	\$120.00

ATTACHMENT C

WV/NPDES Permit and Approved Groundwater Protection Plan



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, West Virginia 25304-2345
Phone: 304-926-0495
Fax: 304-926-0463

Harold Ward, Cabinet Secretary
<https://dep.wv.gov>

July 18, 2024

M&M Fiber Recyclers
4602 Ohio River Road
Huntington, WV 25702

RE: WV/NPDES Permit No. WV0111457
General Permit Registration No.
WVG612812
M&M Fiber Recyclers
Cabell County

Dear Permittee:

The Division of Water and Waste Management has reviewed your General Permit Site Registration Application Form for the coverage of your activity. Based upon the information you submitted on this registration form, you are now authorized to operate under WV/NPDES General Water Pollution Control Permit No. WV0111457, modified January 26, 2021. The general permit can be found at: <http://www.dep.wv.gov/WWE/Programs/stormwater/multisector/Pages/home.aspx>. You should carefully read the contents of the permit and become familiar with all requirements needed to remain in compliance with the permit.

Although you should be aware of all the terms and conditions of this permit, we wish to advise you of the following important requirements:

1. You are subject to the monitoring requirements of Sector G-1 of the General Permit.
2. In accordance with Section B.18. of the General Permit, you are required to have a complete storm water pollution prevention plan (SWPPP) and a groundwater protection (GPP) plan. These plans are to be retained on site and be available for review by the Director or the Director's authorized representative.

3. The current General Permit expires on September 12, 2024. If you wish to continue a regulated activity after the expiration date of this permit, provisions for coverage will be made during the public notice process for any new General Permit to be issued at that time.

4. Facilities permitted to discharge pollutants to the waters of the State under Chapter 22, Article 11 of the West Virginia Code are required to test their effluent in order to verify permit compliance. This testing is the responsibility of the permittee and these test results are to be submitted to this office on the enclosed Discharge Monitoring Report (DMR) forms.

All monitoring required by this permit is benchmark monitoring. This monitoring is not an effluent limitation and should not be construed as such it is merely an indicator of whether or not the facilities discharges indicates if there is a reasonable potential to violate state water quality standards. If the benchmarks are exceeded then the permittee must immediately review both the stormwater and groundwater protection plans to reduce pollutant levels to meet the benchmark levels.

If required by the assigned industrial sector, you must perform this sampling and analysis once every three (3) months. However, the DMR forms are to be completed and submitted to this office 25 days following the end of each required three (3) month sampling period. Failure to submit required DMRs is a violation of the permit and can lead to enforcement actions being taken by this agency for noncompliance. It is suggested that several copies of the enclosed DMR forms be made for your future use, as this office does not supply permittees with DMR forms. Your first DMR is due within 25 days after your first required reporting period.

Your annual permit fee has been assessed as \$100.00. You will be invoiced by this agency one month prior to the anniversary date of your original approval date. Failure to submit the annual fee within 90 days of the due date will render your permit void upon the date you are mailed a certified written notice to that effect.

Finally, note that copies of all future correspondence regarding the permit registration must be sent to the following addresses:

Department of Environmental Protection
Division of Water and Waste Management
Permitting Section
601 57th Street SE
Charleston, WV 25304-2345

Department of Environmental Protection
Environmental Enforcement
131 A Peninsula Street
Wheeling, WV 26003

M&M Fiber Recyclers
Page 3

This General Permit Registration supersedes your GP Registration No. WVG611438 dated the 29th day of September, 2016.

The validity of this General Permit Registration is contingent upon payment of the applicable annual permit fee, as required by Chapter 22, Article 11, Section 10 of the Code of West Virginia.

Your efforts toward preventing the degradation of our natural resources are greatly appreciated. If you have any questions, please contact Patrick Burch of this Division at (304) 926-0499 extension 43813, or by email at Patrick.D.Burch@wv.gov.

Jeremy Bandy, Director

Division of Water and Waste Management

601 57th St SE

Charleston, WV 25304-2345

Phone: (304) 926-0495

Fax: (304) 926-0463

WRD 2A-82
SECTOR: G-1

Final Limitations

STATE OF WEST VIRGINIA
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
STORMWATER MONITORING REPORT

GEN. PMT. REGISTRATION NO. WVG612812

FACILITY NAME: (M&M Fiber Recyclers) M&M FIBER RECYCLERS

CERTIFIED LABORATORY NAME:

LOCATION OF FACILITY: HUNTINGTON, Cabell County

CERTIFIED LABORATORY ADDRESS:

PERMIT NO.: WV011457

OUTLET NO.: 001

WASTELOAD FOR THE MONTH OF:

INDIVIDUAL PERFORMING ANALYSIS:

Parameter	Quantity	Other Units		Measurement Frequency	Sample Type
		Units	N.E.		
00530 (ML-1) RF-B Total Suspended Solids Year Round	Reported Permit Limits	N/A	N/A	1/quarter	Grab
01119 (ML-1) RF-B Copper, Total Recoverable Year Round	Reported Permit Limits	N/A	N/A	1/quarter	Grab
01114 (ML-1) RF-B Lead, Total Recoverable Year Round	Reported Permit Limits	N/A	N/A	1/quarter	Grab
01094 (ML-1) RF-B Zinc, Total Recoverable Year Round	Reported Permit Limits	N/A	N/A	1/quarter	Grab
01104 (ML-1) RF-B Aluminum, Total Recoverable Year Round	Reported Permit Limits	N/A	N/A	1/quarter	Grab
00980 (ML-1) RF-B Iron, Total Recoverable Year Round	Reported Permit Limits	N/A	N/A	1/quarter	Grab
81017 (ML-1) RF-B Chem. Oxygen Demand Year Round	Reported Permit Limits	N/A	N/A	1/quarter	Grab
00552 (ML-1) RF-B Oil and Grease, Hexane EXTR. Year Round	Reported Permit Limits	N/A	N/A	1/quarter	Grab

* CEL = Compliance Evaluation Level

Name of Principal Executive Officer

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of a fine and imprisonment for knowing violations.

Title of Officer

Signature of Principal Executive Officer or Authorized Agent

Date Completed

**WVDEP – Division of Water Resources
GROUNDWATER PROTECTION PLAN
FOR SMALL BUSINESSES**

A Groundwater Protection Plan (GPP) for your business is required by WVDEP. The primary purpose of the GPP is to make the business operator aware that groundwater, by law, must be protected. Other important parts are the inventory of all operations (processes, materials, and other activities) that "may reasonably be expected to" contaminate groundwater, and a description of procedures to prevent potential contamination from occurring.

FACILITY NAME: M + M FIBER RECYCLERS
FACILITY LOCATION: 4632 OHIO RIVER RD
HUNTINGTON, WV 25702

The form below will be your GPP after you:

1. Read and understand each GPP section.
2. Fill in the information required box below each GPP section. Add extra sheets if necessary.
3. Attach a location map and a site diagram or plan showing the location of GPP elements.
4. Sign and date the GPP.

THE COMPLETED GPP MUST BE AVAILABLE ON SITE AT ALL TIMES (47CSR58, Section 4.12.c.)

GPP Section	Information Required
<p>4.11.a. A list of all operations that may reasonably be expected to contaminate groundwater.</p>	<p>A list of all processes, materials, and other activities that could contaminate groundwater. Examples are unlined ponds, underground storage tanks, aboveground storage tanks (especially those with underground piping), waste piles, or raw material piles.</p>
<p><i>HYDRAULIC OIL, DIESEL OR OIL ARE POSSIBLE CONTAMINANTS AND ARE CLEANED UP IF NEEDED, RAW MATERIALS THAT ARE RECEIVED INCLUDE OFFICE PAPER AND CORRUGATED, AND ARE BAILED UP AND SHIPPED TO MILLS FOR RECYCLING.</i></p>	
<p>4.11.b. A description of procedures and facilities used to protect groundwater quality from the list of potential contaminant sources above.</p>	<p>Examples are secondary containment for aboveground tanks, underground piping, and drum storage areas. 4.11.b.1. - Manufacturing 4.11.b.2. - Materials Handling 4.11.b.3. - Equipment Cleaning 4.11.b.4. - Construction and Maintenance 4.11.b.5. - Pipelines 4.11.b.6. - Sumps and Tanks</p>

SPILLS ARE CLEANED UP IMMEDIATELY WITH
 ABSORBENT AND DISPOSED OF AFTER USE.
 BILLED PAPER & LAND BOARD ARE STORED INSIDE
 TO AVOID RAINFALL CONTAMINATION

<p>4.11.c. List procedures to be used when designing and adding new equipment or operations</p>	<p>Examples may be the addition of loading docks for salt storage or fuel storage tanks at a facility. What structures and operating practices will be used to prevent groundwater contamination from these?</p>
---	--

~~None~~ NONE

<p>4.11.d. Summarize all activities at your facility that are already regulated for groundwater protection.</p>	<p>Examples would be the registration of underground storage tanks and the required groundwater monitoring, or the construction and use of a landfill and required groundwater monitoring.</p>
---	--

NOTE

4.11.e.
Discuss any existing groundwater quality data for your facility or an adjacent property.

Include the most recent year of sampling data if available or data for an adjacent facility. Many facilities will have no information for this section.

Attach data summary sheets if necessary.

NOTE

4.11.f.
A statement that no waste material will be used for dicing or fill material on the property unless allowed by another rule.

Write an appropriate statement that this practice will not be used at your facility.

NO WASTE MATERIAL WILL BE USED FOR ANY DICING OR FILL MATERIAL ON THE SITE UNLESS DEP ~~APPROVED~~ APPROVED.

<p>4.11.g. Provisions for all employees to be instructed and trained on their responsibility to ensure groundwater protection. Job procedures shall provide direction on how to prevent groundwater contamination.</p>	<p>Summarize training for all employees to ensure familiarity with the GPP. Specific inspection, maintenance, and cleanup procedures should be included.</p> <p>ALL EMPLOYEES WILL BE TRAINED IN SPILL CLEANUP AND PREVENTION.</p>
<p>QUARTERLY INSPECTIONS WILL BE MADE TO ENSURE CONTAMINANTS ARE RESOLVED AND FUTURE CONTAMINANTS ARE ELIMINATED. SITE WILL BE KEPT CLEAN OF PLASTICS AND PAPER & CARDBOARD SPILLOVER.</p>	
<p>4.11.h. Include provisions for inspections of all GPP elements and equipment. Inspections must be made quarterly at a minimum.</p>	<p>State inspection frequency by operators or other facility personnel. Include inspection form if one is used. Inspection records should be saved to verify GPP inspections.</p> <p>SITE INSPECTIONS TO BE DONE QUARTERLY.</p>
<p>Signature</p>	<p><i>Arthur C. [Signature]</i></p>
<p>Date</p>	<p>5-15-2024 7-9-2024</p>

August 27, 2024
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ATTACHMENT D

Waste Disposal Tonnage Report

Republic Services, Inc.

Tonnage Report

Account Name: 9154403010003

Bill To: 9154403010003

City: York

Account Name	City	Route	Client Name	Contract	Start Date	End Date	Days	Rate	Units	Unit Type	Material	Material Type	Material Description	Material Weight	Material Units	Material Description	Material Weight	Material Units	Material Description	Material Weight	Material Units	Material Description	Material Weight	Material Units	Material Description	Material Weight	Material Units
9154403010003	York	ROUTE 2 RECCLING	4602 OHIO RIVER RD MOUNTAIN TOP, WV 25902	0909/2524	12/21	20/20					None	Solid Waste	Temporary	Cr-Cal	4.80	Tons	CV	124280	480	480	Ken Malwee						
9154403010003	York	ROUTE 2 RECCLING	4602 OHIO RIVER RD MOUNTAIN TOP, WV 25902	0909/2524	12/21	20/20					None	Solid Waste	Temporary	Cr-Cal	2.70	Tons	CV	124860	270	270	Ken Malwee						
9154403010003	York	ROUTE 2 RECCLING	4602 OHIO RIVER RD MOUNTAIN TOP, WV 25902	0909/2524	12/21	20/20					None	Solid Waste	Temporary	Cr-Cal	2.10	Tons	CV	124860	210	210	Ken Malwee						
9154403010003	York	ROUTE 2 RECCLING	4602 OHIO RIVER RD MOUNTAIN TOP, WV 25902	0909/2524	12/21	20/20					None	Solid Waste	Temporary	Cr-Cal	3.15	Tons	CV	124860	315	315	Ken Malwee						
9154403010003	York	ROUTE 2 RECCLING	4602 OHIO RIVER RD MOUNTAIN TOP, WV 25902	0909/2524	12/21	20/20					None	Solid Waste	Temporary	Cr-Cal	16.12	Tons	CV	124860	1612	1612	Ken Malwee						
9154403010003	York	ROUTE 2 RECCLING	4602 OHIO RIVER RD MOUNTAIN TOP, WV 25902	0909/2524	12/21	20/20					None	Solid Waste	Temporary	Cr-Cal	17.27	Tons	CV	124860	1727	1727	Ken Malwee						
9154403010003	York	ROUTE 2 RECCLING	4602 OHIO RIVER RD MOUNTAIN TOP, WV 25902	0909/2524	12/21	20/20					None	Solid Waste	Temporary	Cr-Cal	18.70	Tons	CV	124860	1870	1870	Ken Malwee						
9154403010003	York	ROUTE 2 RECCLING	4602 OHIO RIVER RD MOUNTAIN TOP, WV 25902	0909/2524	12/21	20/20					None	Solid Waste	Temporary	Cr-Cal	4.13	Tons	CV	124860	413	413	Ken Malwee						
															1374			127034	1374				Ken Malwee				

*Large containers hold off or temporary only



west virginia department of environmental protection

Environmental Enforcement
601 57th Street SE
Charleston, WV 25304
Telephone: (304) 926-0470 Fax: (304) 926-0488

Harold D. Ward, Cabinet Secretary
dep.wv.gov

September 5, 2024

M&M Fiber Recyclers
Kenneth Maxwell and Edward Maxwell
4602 Ohio River Road
Huntington, WV 25702

CERTIFIED RETURN RECEIPT REQUESTED

9489 0090 0027 6628 8262 40

Permit No.: N/A

Dear Messrs. Maxwell:

Thank you for attending the Informal Hearing for Civil Administrative Penalty (CAP) Case No. 240007 on August 14, 2024. As a result of additional information provided during the informal hearing, the assessment for CAP Case No. 240007 has been reduced to \$2,745.00. The detailed rationale for this decision is included on the enclosed Informal Hearing Decision sheets.

Should you concur with this assessment, please send the signed check within thirty (30) days of receipt of this correspondence for deposit into both the Solid Waste Reclamation and Environmental Response Fund and the Groundwater Remediation Fund. Payment shall include a reference to the CAP Case No. and shall be mailed to the following address:

**West Virginia Department of Environmental Protection (WVDEP)
Environmental Enforcement – Mail Code #031328
601 57th Street SE
Charleston, WV 25304**

If you wish to contest the results of this conference, pursuant to West Virginia Codes Chapter 22-12-10(c) and Chapter 22-15-15(c)(1), you may request a formal hearing before the Environmental Quality Board by mailing the request to the following address within thirty (30) days of receipt of this decision:

**West Virginia Environmental Quality Board
601 57th Street SE
Charleston, WV 25304**

Promoting a healthy environment.

If there are any questions regarding the formal hearing, you may contact the Environmental Quality Board at (304) 926-0445.

Should you have any questions regarding the Informal Hearing Decision, please contact me at (304) 926-0470.

Sincerely,

**LAURA
MCGEE**

Digitally signed by LAURA MCGEE
DN: CN = LAURA MCGEE, email =
LAURA.E.MCGEE@WV.GOV, C = US
O = WEST VIRGINIA DEPARTMENT
OF ENVIRONMENTAL PROTECTION
OU = ENVIRONMENTAL
ENFORCEMENT
Date: 2024.09.05 08:48:32 -0400

Laura McGee
Environmental Resources Program Manager

Enclosure

cc: Brad M. Wright, Chief Inspector, EE (via e-mail)
Gregory C. Morris, Assistant Chief Inspector, EE/WW (via e-mail)
Laura McGee, Environmental Resources Program Manager, EE (via e-mail)
Cindy Blugerman, Environmental Resources Specialist, EE (via e-mail)
Amaris Elliott, Environmental Resources Associate, EE (via e-mail)
Tonya Mather, Environmental Inspector Supervisor, EE/WW (via e-mail)
Chris Dudek, Environmental Inspector Specialist, EE/WW (via e-mail)
John D. Simpson, Accounting Technician, EE (via e-mail)
Calesta Ruffin, Accounting Technician, EE (via e-mail)
Marissa Grace Nortz, Steptoe & Johnson PLLC (via e-mail)

Informal Hearing Decision
for Violations of the Solid Waste Management Act

CAP Case No.: 240007

9/5/2024

	<u>M&M Fiber Recyclers</u> Company/Individual	<u>N/A</u> Permit / ID #	<u>W24-06-040101-DAD</u> Violation #
Seriousness Score:	Pre-Conference <u>9 / 6</u>	Post-Conference <u>9 / 5</u>	Amount from Table D <u>\$1,625.00</u>
Negligence/Good Faith Score:	Pre-Conference <u>10 (2.0)</u>	Post-Conference <u>4 (0.8)</u>	Sub-Total <u>\$1,300.00</u>
Adjustment Factor:	Pre-Conference <u>0.75</u>	Post-Conference <u>0.75</u>	Sub-Total <u>\$975.00</u>
Unique Factor:	Pre-Conference <u>0.00</u>	Post-Conference <u>0.00</u>	Sub-Total <u>\$975.00</u>
History of Non-	Pre-Conference <u>0 = \$0.00</u>	Post-Conference <u>0 = \$0.00</u>	Sub-Total <u>\$975.00</u>
	Initial Assessment <u>\$2,962.50</u>		Final Amount <u>\$975.00</u>

Decision

Assessment Reduced

Rationale

The violator has initiated actions to correct the violations of WV State Code 22-15-10(a).

Final Amount Due: \$975.00

Informal Hearing Decision

for Violations of the Groundwater Protection Act

CAP Case No.: 240007

9/5/2024

<u>M&M Fiber Recyclers</u> Company/Individual	<u>N/A</u> Permit/ID#	<u>W24-06-040101-DAD</u> Violation #
Seriousness Score: <u>Pre-Conference</u> <u>10 / 6</u> Amount = <u>\$2,100.00</u>		<u>Post-Conference</u> <u>9 / 5</u> Amount = <u>\$1,625.00</u>
Negligence/Good Faith Score: <u>Pre-Conference</u> <u>4 (0.8)</u> Amount = <u>\$1,680.00</u>		<u>Post-Conference</u> <u>2 (0.6)</u> Amount = <u>\$975.00</u>
Unique Factor: <u>Pre-Conference</u> <u>0.00</u> Amount = <u>\$1,680.00</u>		<u>Post-Conference</u> <u>0.00</u> Amount = <u>\$975.00</u>
History of Non-Compliance: <u>Pre-Conference</u> <u>0 = \$0.00</u>		<u>Post-Conference</u> <u>0 = \$0.00</u>
Initial Assessment <u>\$1,680.00</u>		Final Amount <u>\$975.00</u>

Decision

Assessment Reduced

Rationale

The violator has initiated actions to correct the violations of WV Legislative Rule 47CSR58 Section 4.7.4.

Final Amount Due: \$975.00

Informal Hearing Decision

for Violations of the Groundwater Protection Act

CAP Case No.: 240007

9/5/2024

<u>M&M Fiber Recyclers</u> Company/Individual	<u>N/A</u> Permit/ID#	<u>W24-06-040101-DAD</u> Violation #
<p>Seriousness Score: <u>Pre-Conference</u> <u>6 / 6</u></p> <p>Amount = <u>\$1,675.00</u></p>	<p><u>Post-Conference</u> <u>6 / 5</u></p> <p>Amount = <u>\$1,325.00</u></p>	
<p>Negligence/Good Faith Score: <u>Pre-Conference</u> <u>4 (0.8)</u></p> <p>Amount = <u>\$1,340.00</u></p>	<p><u>Post-Conference</u> <u>2 (0.6)</u></p> <p>Amount = <u>\$795.00</u></p>	
<p>Unique Factor: <u>Pre-Conference</u> <u>0.00</u></p> <p>Amount = <u>\$1,340.00</u></p>	<p><u>Post-Conference</u> <u>0.00</u></p> <p>Amount = <u>\$795.00</u></p>	
<p>History of Non-Compliance: <u>Pre-Conference</u> <u>0 = \$0.00</u></p>	<p><u>Post-Conference</u> <u>0 = \$0.00</u></p>	
<p>Initial Assessment <u>\$1,340.00</u></p>		<p>Final Amount <u>\$795.00</u></p>

Decision

Assessment Reduced

Rationale

The violator has initiated actions to correct the violations of WV Legislative Rule 47CSR58 Section 4.11.

Final Amount Due: \$795.00

M&M Fiber Recyclers – Photo Log



Overview of the recycling facility (image taken from WV Flood Map Tool).



04/01/2024 – DSCF2896 – View of an open dump of solid waste.

M&M Fiber Recyclers – Photo Log



04/01/2024 – DSCF2902 – View of an open dump of solid waste.



04/01/2024 – DSCF2899 – View of storage of waste hydraulic oil without adequate secondary containment.



October 17, 2024

Dear Environmental Enforcement:

The following is in response to your request for proof of delivery on your item with the tracking number:
9489 0090 0027 6628 8262 40.

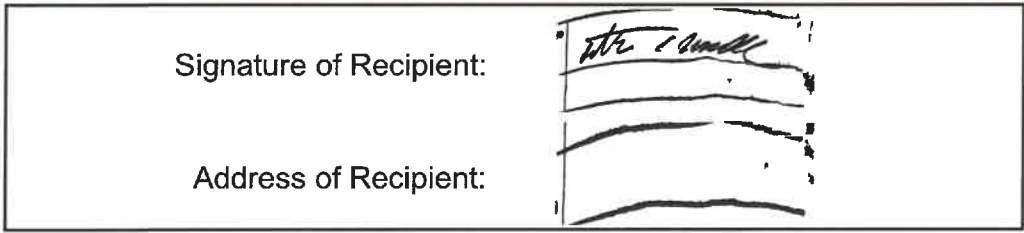
Item Details

Status:	Delivered, Left with Individual
Status Date / Time:	September 18, 2024, 10:13 am
Location:	HUNTINGTON, WV 25702
Postal Product:	First-Class Mail®
Extra Services:	Certified Mail™ Return Receipt Electronic

Shipment Details

Weight:	2lb, 2.9oz
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Recipient Signature



Note: Scanned image may reflect a different destination address due to Intended Recipient's delivery instructions on file.

Thank you for selecting the United States Postal Service® for your mailing needs. If you require additional assistance, please contact your local Post Office™ or a Postal representative at 1-800-222-1811.

Sincerely,
United States Postal Service®
475 L'Enfant Plaza SW
Washington, D.C. 20260-0004