



west virginia department of environmental protection

Division of Water and Waste Management
601 57th Street SE
Charleston, WV 25304
Phone: (304) 926-0470
Fax: (304) 926-0452

Austin Caperton, Cabinet Secretary
dep.wv.gov

**CONSENT ORDER
ISSUED UNDER THE
HAZARDOUS WASTE MANAGEMENT, WATER POLLUTION CONTROL, AND
GROUNDWATER PROTECTION ACTS
WEST VIRGINIA CODE, CHAPTER 22, ARTICLES 11, 12, AND 18**

TO: Dana Transport, Inc.
Ronald B. Dana
210 Essex Avenue East
Avenel, NJ 07001

DATE: August 27, 2020

ORDER NO.: MM-20-25

INTRODUCTION

This Consent Order is issued by the Director of the Division of Water and Waste Management (hereinafter "Director"), under the authority of West Virginia Code 22-18-1 et seq., 22-12-1 et seq., and 22-11-1 et seq. to Dana Transport, Inc. (hereinafter "Dana").

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. Dana operates a tanker truck, trailer, ISO container, and rail car cleaning/maintenance facility located in Nitro, Putnam County, West Virginia, and Dana has been assigned EPA ID No. WVD016116428. In addition, on June 28, 2017, Dana was reissued WV/NPDES Water Pollution Control Permit No. WV0050130 to operate and maintain a treatment and disposal system for the direct discharge of treated wastewater (tank wash water and sanitary wastewater) via Outlet No. 001 into a common sewer line that discharges to the Kanawha River near Mile Point 43.1. Order No. 8706 was issued to Dana as part of the WV/NPDES Water Pollution Control Permit reissuance in response to Dana's failure to revise its Stormwater Pollution Prevention Plan (SWPPP) after reporting sample results that exceeded benchmarks.
2. On January 4, 2017, West Virginia Department of Environmental Protection (WVDEP) personnel conducted an inspection of the facility. During the inspection, an Area of Concern was noted, due to Dana's failure to store Universal Waste Lamps in closed containers, as required by Code of Federal Regulations 40CFR273.13(d)(1). In addition,
Promoting a healthy environment.

violations of the following sections of Code of Federal Regulations were observed and documented:

- a. 40CFR262.34(a)(1)(i) – Dana failed to store hazardous waste in containers.
- b. 40CFR265.173(a) as referenced by 40CFR262.34(c)(1)(i) – Dana failed to keep a satellite hazardous waste accumulation container closed.
- c. 40CFR262.42(a)(1) – Dana failed to contact the transporter and/or the owner or operator of the designated facility to determine the status of multiple hazardous waste shipments after not receiving copies of manifests with handwritten signatures within thirty-five (35) days of acceptance by the initial transporter.
- d. 40CFR262.42(a)(2) – Dana failed to notify the EPA Regional Administrator that the final signed copies of multiple manifests were not received from the designated facility within forty-five (45) days of the date the waste was accepted by the initial transporter.

As a result of the aforementioned violations, Notice of Violation (NOV) No. 1701-748 was issued to Dana.

3. On October 3, 2019, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of Code of Federal Regulations and WV Legislative Rules were observed and documented:
 - a. 40CFR262.15(a)(3)(iii) - Dana stored incompatible hazardous wastes on the same secondary containment pallet without providing adequate separation.
 - b. 40CFR262.15(a)(4) - Dana failed to keep multiple satellite hazardous waste accumulation containers closed.
 - c. 40CFR262.15(a)(5)(i) - Dana failed to label a satellite accumulation container of hazardous waste with the words “Hazardous Waste.” Specifically, there was an open and unlabeled five (5) gallon container of hazardous waste next to the secondary containment pallet in Bay One (1).
 - d. 40CFR262.15(a)(5)(ii) - Dana failed to label the aforementioned five (5) gallon satellite accumulation container with an indication of the hazards of the contents.
 - e. 40CFR262.17(a)(1)(ii) - Dana stored hazardous waste in a container that was not in good condition. Specifically, a fifty-five (55) gallon container at the entrance to Bay One (1) had been punctured by a forklift, and the contents of the container had not been completely removed.
 - f. 40CFR262.17(a)(1)(iv)(A) - Dana failed to keep a container holding hazardous waste closed. Specifically, the lid to the aforementioned fifty-five (55) gallon container at the entrance to Bay One (1) was not secured.
 - g. 40CFR262.11 - Dana failed to perform an accurate hazardous waste determination on the contents of the elevated tank above the lift station.
 - h. 40CFR273.13(d)(1) - Dana failed to store Universal Waste Lamps in the hazardous waste storage area in closed containers.
 - i. 40CFR273.14(e) - Dana failed to properly label or mark clearly containers of Universal Waste Lamps in the hazardous waste storage area with one of the following phrases: “Universal Waste—Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”
 - j. 33CSR20 Section 4.1 - Dana failed to notify that it is a hazardous waste transporter.

- k. 40CFR263.22 - Dana failed to maintain transporter copies of hazardous waste manifests.
- l. 40CFR262.262 - Dana failed to provide a contingency plan during the inspection.
- m. 40CFR262.17(a)(7)(iii) - Dana failed to complete annual hazardous waste refresher training in a timely manner.

As a result of the aforementioned violations, NOV No. 2001-001 was issued to Dana.

- 4. On November 20, 2019, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of WV State Code, WV Legislative Rules and the WV/NPDES permit were observed and documented:
 - a. Appendix A.I.13 – Dana failed to establish a permanent marker in accordance with WV Legislative Rule 47CSR11 Section 9.
 - b. Appendix A.I.3 – Dana failed to take steps to minimize or prevent a discharge with the likelihood of adversely affecting human health or the environment. Specifically, Dana failed to clean up or mitigate a spill of petroleum product in the parking lot.
 - c. Appendix A.II.1 – Dana failed to properly operate and maintain the facility. Specifically, there was a clogged drain, and wastewater had discharged onto the ground.
 - d. 47CSR58 Section 4.8.a – Dana failed to provide secondary containment for aboveground storage tanks.
 - e. Sections C.11 and C.12 – Dana failed to keep adequate records due to the lack of a Stormwater Pollution Prevention Plan (SWPPP), Groundwater Protection Plan (GPP), and Best Management Practices Plan (BMP).
 - f. 22-11-1 et seq. and Section B.1 – Dana failed to comply with the terms and conditions of the WV/NPDES permit and Order for Compliance Item No. Two (2) of Order No. 8706 by failing to revise and submit a SWPPP to WVDEP for review. In addition, Dana failed to revise and submit the GPP to WVDEP for review and approval.
 - g. 22-11-1 et seq. and Section C.13(c) – Dana failed to comply with the terms and conditions of the WV/NPDES permit and Order No. 8706 by failing to modify the SWPPP in response to benchmark exceedances. Order for Compliance Item No. Two (2) of Order No. 8706 required that Dana submit a revised SWPPP and a corrective action plan that identified the causes of exceedances of benchmark values, actions that had been taken to address benchmark exceedances, and revisions that would be made to the SWPPP to achieve benchmark values in the future. In addition, Order for Compliance Item No. Three (3) required that Dana submit quarterly progress reports identifying the revisions that had been made to the SWPPP in order to achieve compliance with benchmarks. However, Dana failed to modify the SWPPP, submit the corrective action plan, and submit quarterly progress reports, even though concentrations of pollutants continued to regularly exceed benchmarks (Table One).

As a result of the aforementioned violations, NOV Nos. W19-40-112001-DAD, W19-40-112002-DAD, W19-40-112003-DAD, W19-40-112004-DAD, W19-40-112005-DAD, W19-40-112006-DAD, and W19-40-112007-DAD were issued to Dana.

5. On December 12, 2019, WVDEP personnel conducted an inspection of the facility. During the inspection, a violation of the following section of the WV/NPDES permit was observed and documented:
 - a. Appendix A.II.1 - Dana failed to properly operate and maintain the wastewater treatment facility. Specifically, the wastewater treatment plant had been shut down and inoperable since 2014.

As a result of the aforementioned violation, NOV No. W19-40-1212-DAK was issued to Dana.

6. On May 22, 2020, WVDEP personnel conducted an inspection of the facility. During the inspection, violations of the following sections of Code of Federal Regulations and WV State Code were observed and documented:
 - a. 22-18-8(a) – Dana stored hazardous waste without a permit. Upon a review of analytical reports, WVDEP personnel determined that tank trailer No. 2072 contained a hazardous waste which had been on the site for greater than ninety (90) days.
 - b. 40CFR262.17(a)(5)(i)(B) – Dana failed to properly mark or label tank trailer No. 2072 with an indication of the hazards of the contents.

As a result of the aforementioned violations, NOV No. 2005-432 was issued to Dana.

ORDER FOR COMPLIANCE

Now, therefore, in accordance with West Virginia State Code 22-18-1 et seq. and 22-12-1 et seq., and 22-11-1 et seq. it is hereby agreed between the parties, and ORDERED by the Director:

1. Dana shall immediately take all measures to initiate compliance with all pertinent laws and rules.
2. Within forty-five (45) days of the effective date of this Order, Dana shall submit for approval a proposed plan of corrective action and schedule, outlining action items and completion dates for how and when Dana will achieve compliance with all pertinent laws and rules. The plan of corrective action shall include, but not be limited to, provisions for making accurate hazardous waste determinations. The plan of corrective action shall make reference to EPA ID No. WVD016116428 and Order No. MM-20-25. The plan of corrective action shall be submitted to:

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

Upon approval, the plan of corrective action and schedule shall be incorporated into and become part of this Order, as if fully set forth herein. Failure to submit an approvable

plan of corrective action and schedule or failure to adhere to the approved schedule is a violation of this Order.

3. Because of Dana's Code of Federal Regulations, WV/NPDES permit, WV State Code, and WV Legislative Rule violations, Dana shall be assessed a civil administrative penalty of fifty-one thousand one hundred seventy dollars (\$51,170) to be paid to WVDEP within thirty (30) days of the effective date of the Order, as follows:

Forty-four thousand two hundred ten dollars (\$44,210) shall be deposited in the Hazardous Waste Management Fund.

Six thousand nine hundred sixty dollars (\$6,960) shall be deposited in the Water Quality Management Fund.

Payments made pursuant to this paragraph are not tax-deductible for purposes of State or federal law. **Payment shall include a reference to the Order No. and shall be mailed to:**

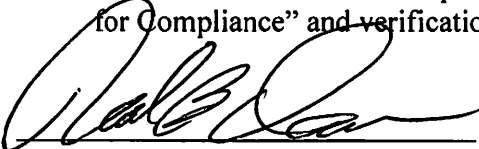
**Chief Inspector
Environmental Enforcement - Mail Code #031328
WV-DEP
601 57th Street SE
Charleston, WV 25304**

OTHER PROVISIONS

1. Dana hereby waives its right to appeal this Order under the provisions of West Virginia State Code 22-18-20, 22-12-11, and 22-11-21. Under this Order, Dana agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Dana does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding Dana other than proceedings, administrative or civil, to enforce this Order.
2. The Director reserves the right to take further action if compliance with the terms and conditions of this Order does not adequately address the violations noted herein and reserves all rights and defenses which he may have pursuant to any legal authority, as well as the right to raise, as a basis for supporting such legal authority or defenses, facts other than those contained in the Findings of Fact.
3. If any event occurs which causes delay in the achievement of the requirements of this Order, Dana shall have the burden of proving that the delay was caused by circumstances beyond its reasonable control which could not have been overcome by due diligence (i.e., force majeure). Force majeure shall not include delays caused or contributed to by the lack of sufficient funding. Within three (3) working days after Dana becomes aware of such a delay, notification shall be provided to the Director/Chief Inspector and Dana shall, within ten (10) working days of initial notification, submit a detailed written explanation of the anticipated length and cause of the delay, the measures taken and/or to be taken to prevent or minimize the delay, and a timetable by which Dana intends to

implement these measures. If the Director agrees that the delay has been or will be caused by circumstances beyond the reasonable control of Dana (i.e., force majeure), the time for performance hereunder shall be extended for a period of time equal to the delay resulting from such circumstances. A force majeure amendment granted by the Director shall be considered a binding extension of this Order and of the requirements herein. The determination of the Director shall be final and not subject to appeal.

- 4. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Dana of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Dana to additional penalties and injunctive relief in accordance with the applicable law.
- 5. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall remain in full force and effect.
- 6. This Order is binding on Dana, its successors and assigns.
- 7. This Order shall terminate upon Dana's notification of full compliance with the "Order for Compliance" and verification of this notification by WVDEP.



Ronald B. Dana
Dana Transport, Inc.

_____ Date

Public Notice begin:

_____ Date

Public Notice end:

_____ Date

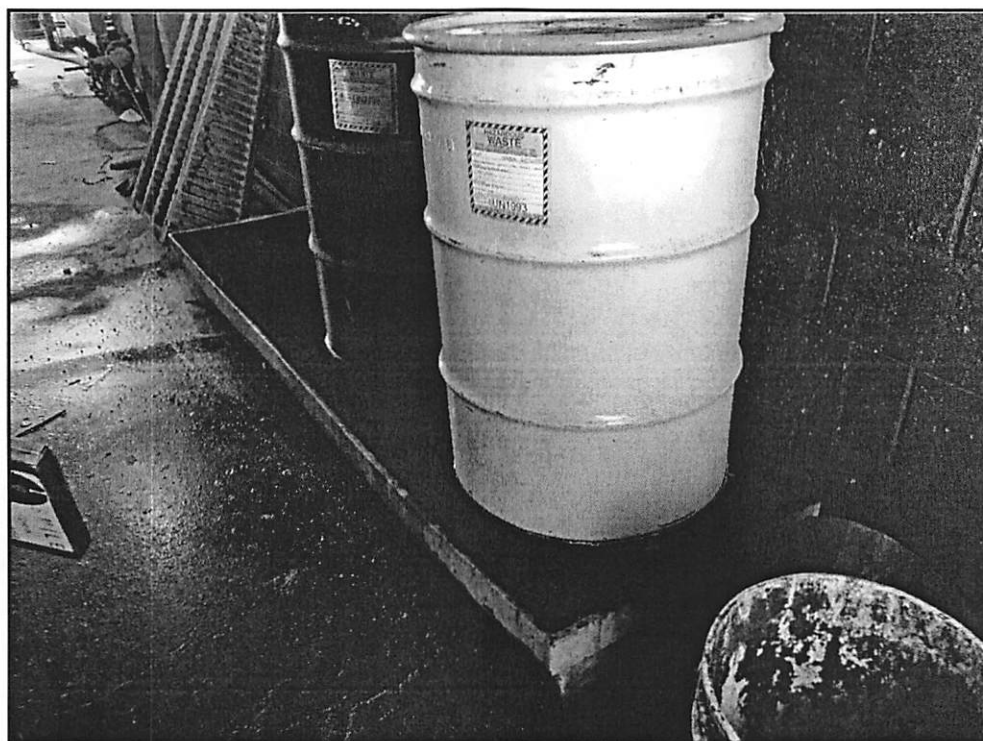
Katheryn Emery, P.E., Acting Director
Division of Water and Waste Management

_____ Date

Photo Attachment

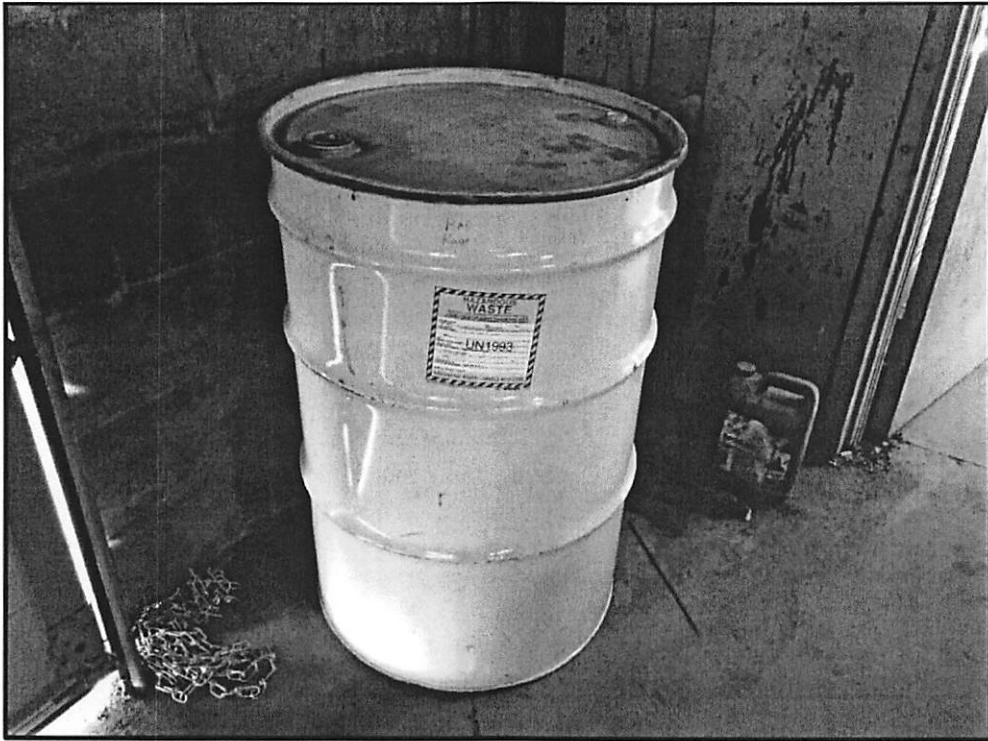


10/3/2019 - Satellite accumulation area in Bay 1. Spillage on the floor. Secondary containment pallet full of spillage and rinsate.

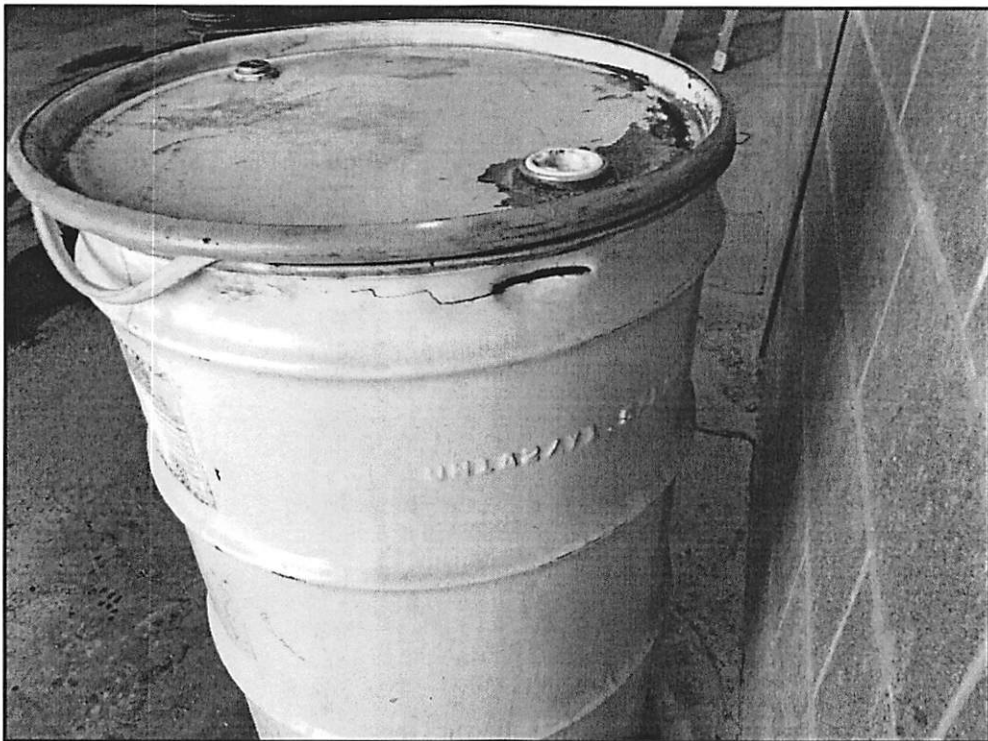


10/3/2019 - Satellite accumulation area in Bay 4. Secondary containment pallet full of spillage and rinsate.

Photo Attachment

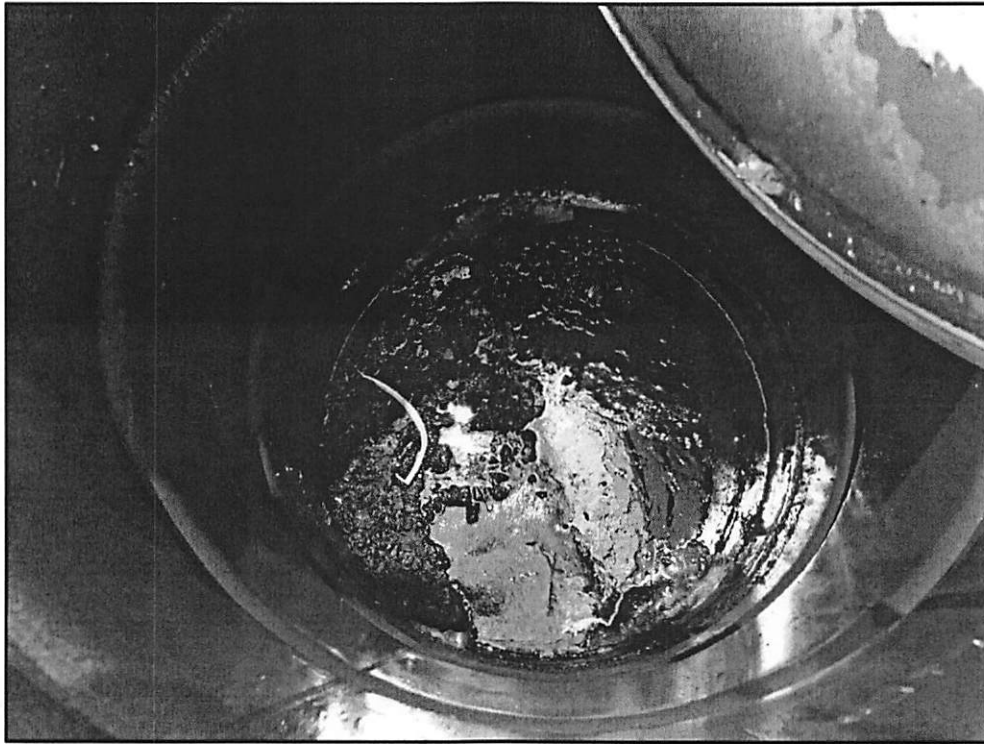


10/3/2019 - Satellite accumulation container lid not secured, no retaining ring.



10/3/2019 - Punctured 55-gallon drum at entrance of Bay 1.

Photo Attachment



10/3/2019 - Inside view of punctured 55-gallon drum at entrance of Bay 1.



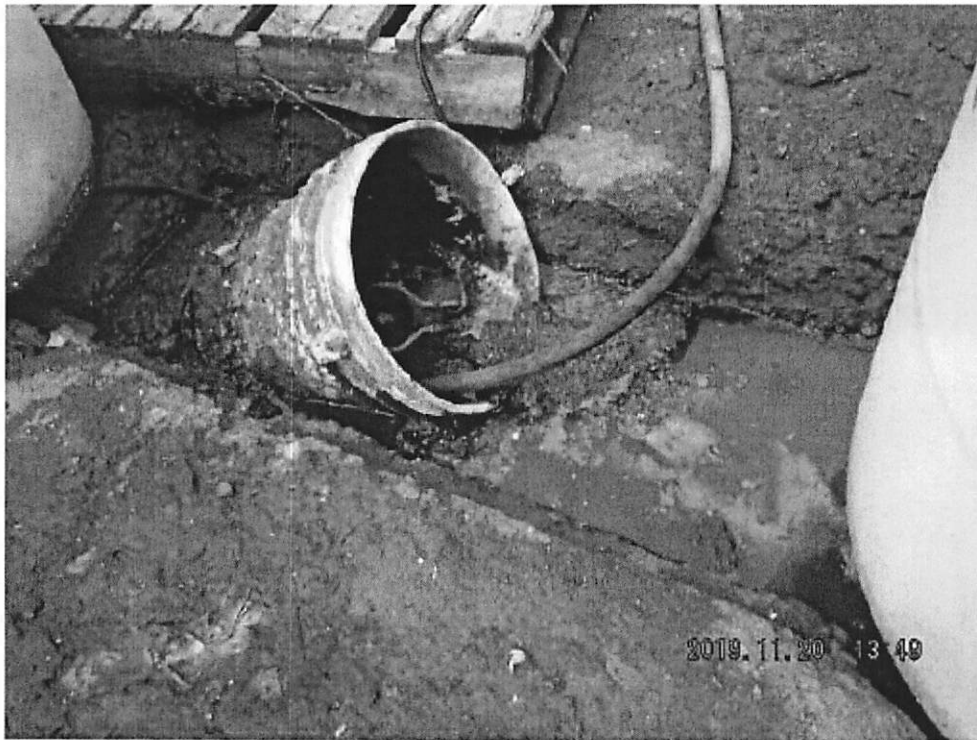
10/3/2019 - Cardboard box lined with a plastic bag used to contain pieces of cut up transfer hoses.

Photo Attachment



10/3/2019 - Inside view of cardboard box lined with a plastic bag used to contain pieces of cut up transfer hoses.

Photo Attachment

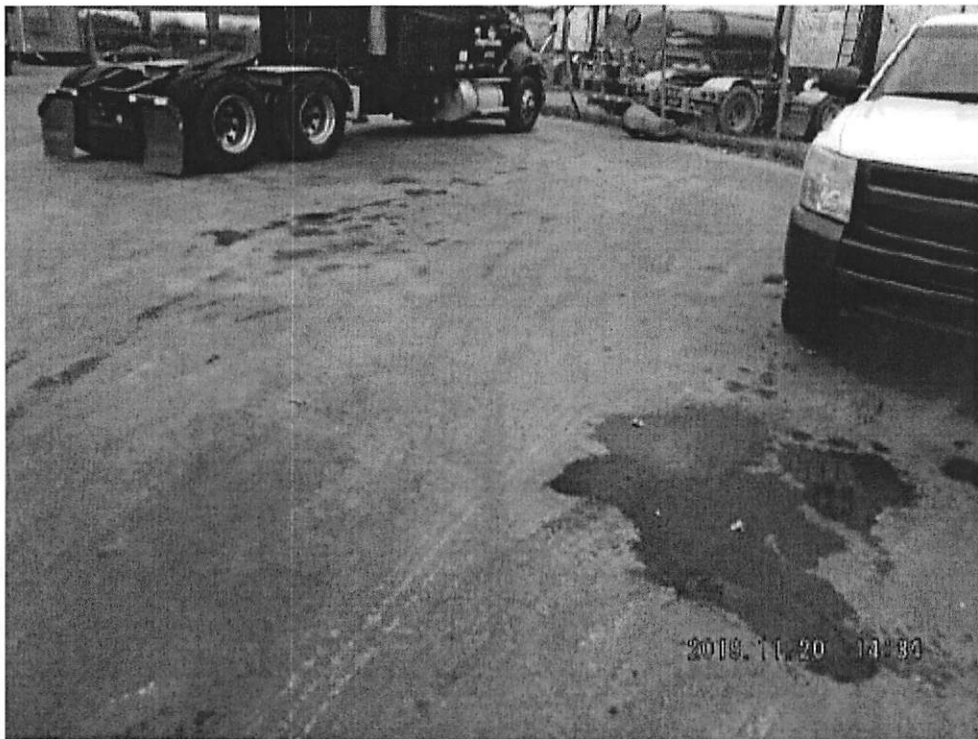


11.20.2019 – Drain which has been clogged near a wastewater discharge from water treated for the boiler.



11.20.2019 – Chemicals stored without secondary containment.

Photo Attachment



11.20.2019 – Evidence of spill events.



11.20.2019 – Evidence of spill without adequate removal of materials.

Photo Attachment



11.20.2019 – Evidence of a spill event.

Table One: Dana Transport, Inc. Benchmark Summary

Outlet 002 Benchmarks - February 1, 2018 through January 31, 2020					
Date	Outlet	Parameter	Units	Benchmark	Reported Result
3/2018	002	Total Suspended Solids	mg/L	100	435
6/2018	002	Total Suspended Solids	mg/L	100	738
9/2018	002	Total Suspended Solids	mg/L	100	303
3/2019	002	Total Suspended Solids	mg/L	100	136
6/2019	002	Total Suspended Solids	mg/L	100	152
9/2019	002	Total Suspended Solids	mg/L	100	478
7/2018	002	Total Recoverable Iron	mg/L	1	3.62
1/2019	002	Total Recoverable Iron	mg/L	1	2.25
7/2019	002	Total Recoverable Iron	mg/L	1	1.51
1/2020	002	Total Recoverable Iron	mg/L	1	2.91
7/2018	002	Total Recoverable Aluminur	mg/L	0.75	3.65
1/2019	002	Total Recoverable Aluminur	mg/L	0.75	0.965
7/2019	002	Total Recoverable Aluminur	mg/L	0.75	1.37
1/2020	002	Total Recoverable Aluminur	mg/L	0.75	3.4

<p>Outlet 002 Total = 14</p>

Base Penalty Calculation (pursuant to 47CSR1-6.1)

Responsible Party: Dana Transport, Inc. **Receiving Stream:** _____

Treatment System Design Maximum Flow: _____ MGD

Treatment System Actual Average Flow: _____ MGD (if known)

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#													
			4a	4b, 4c	4e, 4f, 4g	5a										
a)	Amount of Pollutant Released	1 to 3	1	1	1	1										
b)	Toxicity of Pollutant	0 to 3	0	1	0	1										
c)	Sensitivity of the Environment	0 to 3	0	1	0	1										
d)	Length of Time	1 to 3	1	1	3	1										
e)	Actual Exposure and Effects thereon	0 to 3	0	1	0	1										
Average Potential for Harm Factor			0.4	1	0.8	1	No	No	No	No	No	No	No	No	No	No
2)	Extent of Deviation Factor	Factor Range														
	Degree of Non-Compliance	1 to 3	1	3	3	3										

Potential for Harm Factors:

- 1)c - Sensitivity of the Environment Potentially Affected (0 for "dead" stream)
- 1)d - Length of Time of Violation
- 1)e - Actual Human/Environmental Exposure and Resulting Effects thereon

Examples/Guidance:

Note: Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

Minor = exceedance of permit limit by <=40% for Avg. Monthly or <=100% for Daily Max., exceed numeric WQ standard by <= 100%, or report doesn't contain some minor information.

Moderate = exceedance of permit limit by >= 41% and <= 300% for Avg. Monthly , >= 101% and <= 600% for Daily Max., exceed numeric WQ standard by >= 101% and <= of 600% or report doesn't fully address intended subject matter.

Major = exceedance of permit limit by >= 301% for Avg. Monthly, >= 601% for Daily Max., exceed numeric WQ standard by >= 601%, failure to submit a report, failure to obtain a permit, failure to report a spill, etc. Note that a facility in SNC should be rated as major for length of time and degree of non-compliance.

Narrative WQ standard violations - case-by-case.

		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
4a	Minor	Minor	\$400	1	\$400
4b, 4c	Minor	Major	\$2,000	1	\$2,000
4e, 4f, 4g	Minor	Major	\$1,900	1	\$1,900
5a	Minor	Major	\$2,000	1	\$2,000
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
Total Base Penalty					\$6,300

Penalty Adjustment Factors

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor

6.2.b.1 - Degree of or absence of willfulness and/or negligence - 0% to 30% increase

6.2.b.4 - Previous compliance/noncompliance history - 0% to 100% increase - based upon review of last three (3) years - Warning = maximum of 5% each, N.O.V. = maximum of 10% each, previous Order = maximum of 25% each - Consistent DMR violations for <1 year = 10% maximum, for >1 year but <2 years = 20% maximum, for >2 years but <3 years = 30% maximum, for >3 years = 40 % maximum

6.2.b.6 - Economic benefits derived by the responsible party (increase to be determined)

6.2.b.7 - Public Interest (increase to be determined)

6.2.b.8 - Loss of enjoyment of the environment (increase to be determined)

6.2.b.9 - Staff investigative costs (increase to be determined)

6.2.b.10 - Other factors

Size of Violator: 0 - 50% decrease

NOTE: This factor is not available to discharges that are causing a water quality violation. This factor does not apply to a commercial or industrial facility that employees or is part of a corporation that employees more than 100 individuals.

Avg. Daily WW Discharge Flow (gpd)	% Reduction Factor
< 5,000	50
5,000 to 9,999	40
10,000 to 19,999	30
20,000 to 29,999	20
30,000 to 39,999	10
40,000 to 99,999	5
> 100,000	0

Additional Other factors to be determined for increases or decreases on a case-by-case basis.

Public Notice Costs (cost for newspaper advertisement)

6.2.b.2 - Good Faith - 10% decrease to 10% increase

6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease

6.2.b.5 - Ability to pay a civil penalty - 0% to 100% decrease

Base Penalty Adjustments

(pursuant to 47CSR1-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
6.2.b.1 - Willfulness and/or negligence -	10		\$630
6.2.b.4 - Compliance/noncompliance history -			\$0
6.2.b.6 - Economic benefits - (flat monetary increase)			\$0
6.2.b.7 - Public Interest - (flat monetary increase)			\$0
6.2.b.8 - Loss of enjoyment - (flat monetary increase)			\$0
6.2.b.9 - Investigative costs - (flat monetary increase)			\$0
6.2.b.10 - Other factors (size of violator)			\$0
6.2.b.10 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.10 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Costs (flat monetary increase)	\$30		\$30
6.2.b.2 - Good Faith - Increase			\$0
6.2.b.2 - Good Faith - Decrease			\$0
6.2.b.3 - Cooperation with the Secretary			\$0
6.2.b.5 - Ability to Pay			\$0
Penalty Adjustments			\$660
Penalty =			\$6,960

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	
Competitive Advantage	
Estimated Economic Benefit	\$0
Comments: Economic benefit not warranted.	

Hazardous Waste Base Penalty Calculation

(pursuant to 33CSR27-6.1)

Responsible Party: Dana Transport, Inc. **EPA ID Number:** WVD016116428

Generator Classification: LQG

Enter FOF# and rate each finding as to Potential and Extent.

1)	Potential for Harm Factor	Factor Range	FOF#												
			3a	3b	3c	3d	3e, 3f	3g	3h	3i	3j	3k	3l	3m	6a
a)	Harm to RCRA Program	1 to 3	1	1	1	1	2	2	1	1	3	3	1	3	3
b)	Probability of Exposure	0 to 3	2	2	0	0	2	1	0	0	2	0	0	1	2
c)	Potential Seriousness of Contamination	1 to 3	2	2	1	1	2	1	1	1	2	2	1	2	2
Average Potential for Harm Factor			1.7	1.7	0.7	0.7	2	1.3	0.7	0.7	2.3	1.7	0.7	2	2.3
2)	Extent of Deviation Factor	Factor Range													
	Degree of Non-Compliance	1 to 3	1	2	1	1	1	1	1	1	3	3	1	2	3

Potential for Harm Factors

1a. - Harm to the RCRA Program

- All regulatory requirements are fundamental to the continued integrity of the RCRA Program
- Violations that undermine the statutory or regulatory purposes or procedures for implementing the RCRA program may have serious implications and merit substantial penalties. Examples include but are not limited to: failure to notify as a generator, failure to respond to an info request, failure to prepare or maintain a manifest, and operating / disposal without a permit

1b. - Probability of Exposure - factors to be considered include but are not limited to: evidence of a release, evidence of waste mismanagement, and adequacy of provisions for detecting and preventing a release

1c. - Potential Seriousness of Contamination - factors to consider include but are not limited to quantity and toxicity of wastes (potentially) released, likelihood or fact of transport by way of environmental media (e.g. air and groundwater), and existence, size and proximity of receptor populations (e.g. local residents, fish, wildlife) and sensitive environmental media (e.g. surface waters and aquifers.)

Note: Rate as 1 for Minor, 2 for Moderate and 3 for Major. Rate as 0 if it does not apply.

		Extent of Deviation from Requirement		
		Major	Moderate	Minor
Potential for Harm to Human Health or the Environment	Major	\$8,000 to \$10,000	\$6,000 to \$8,000	\$5,000 to \$6,000
	Moderate	\$4,000 to \$5,000	\$3,000 to \$4,000	\$2,000 to \$3,000
	Minor	\$1,500 to \$2,000	\$1,000 to \$1,500	Up to \$1,000

FOF #	Potential for Harm	Extent of Deviation	Penalty	Multiple Factor	Base Penalty
3a	Moderate	Minor	\$2,670	1	\$2,670
3b	Moderate	Moderate	\$3,670	1	\$3,670
3c	Minor	Minor	\$670	1	\$670
3d	Minor	Minor	\$670	1	\$670
3e, 3f	Moderate	Minor	\$3,000	1	\$3,000
3g	Moderate	Minor	\$2,330	1	\$2,330
3h	Minor	Minor	\$670	1	\$670
3i	Minor	Minor	\$670	1	\$670
3j	Major	Major	\$8,660	1	\$8,660
3k	Moderate	Major	\$4,670	1	\$4,670
3l	Minor	Minor	\$670	1	\$670
3m	Moderate	Moderate	\$4,000	1	\$4,000
6a	Major	Major	\$8,660	1	\$8,660
6b	Minor	Minor	\$670	1	\$670
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
0	FALSE	FALSE	FALSE	1	\$0
Total Base Penalty					\$41,680

Penalty Adjustment Factors
(pursuant to 33CSR27-6.2)

Penalty Adjustment Factors

- 6.2.b.1 - Good faith efforts to comply or lack of good faith - 10% decrease to 10% increase
- 6.2.b.2 - Degree of Willfulness and / or Negligence - 0% to 30% increase
- 6.2.b.3 - Cooperation with the Secretary - 0% to 10% decrease
- 6.2.b.4 - History of Non-Compliance - 0% to 100% increase -
based upon review of last three (3) years - Warning = maximum of 5% each,
N.O.V. = maximum of 10% each, previous Order = maximum of 25% each
- 6.2.b.5 - Ability to pay a civil administrative penalty - 0% to 100% decrease
- 6.2.b.6 - Economic Benefit of non-compliance
- 6.2.b.7 - Staff Investigative Costs
- 6.2.b.8 - Other relevant factors determined on a case-by-case basis

Base Penalty Adjustments

(pursuant to 33CSR27-6.2)

Penalty Adjustment Factor	% Increase	% Decrease	Base Penalty Adjustments
6.2.b.1 - Good Faith - Increase			\$0
6.2.b.1 - Good Faith - Decrease			\$0
6.2.b.2 - Willfulness and/or negligence	10		\$4,168
6.2.b.3 - Cooperation with the Secretary		10	(\$4,168)
6.2.b.4 - Compliance/noncompliance history			\$0
6.2.b.5 - Ability to Pay an Administrative Penalty			\$0
6.2.b.6 - Economic Benefit (flat monetary increase)	\$2,500		\$2,500
6.2.b.7 - Staff Investigative Costs (flat monetary increase)			\$0
6.2.b.8 - Additional Other Factors - Increase (flat monetary increase)			\$0
6.2.b.8 - Additional Other Factors - Decrease (flat monetary decrease)			\$0
Public Notice Cost (flat monetary increase)	\$30		\$30
Penalty Adjustments			\$2,530
Penalty =			\$44,210

Estimated Economic Benefit Item	Estimated Benefit (\$)
Monitoring & Reporting	
Installation & Maintenance of Pollution Control Equipment	
O&M expenses and cost of equipment/materials needed for compliance	
Permit Application or Modification	\$2,500
Competitive Advantage	
Estimated Economic Benefit	\$2,500
Comments: Avoided cost of the hazardous waste storage permit application fee for tank trailer No. 2072 (permitted as a "container").	