



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION
COUNTY ENVIRONMENTAL AND WASTE ENFORCEMENT PROGRAMS
BUREAU OF SOLID WASTE COMPLIANCE AND ENFORCEMENT
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TRENTON NJ 08625-0407
Tel. (609) 584-4180
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James E. McGreevey
Governor

Bradley M. Campbell
Commissioner

IN THE MATTER OF

ADMINISTRATIVE ORDER

HI TECH TRANS, LLC and DAVID STOLLER, Individually and in his capacity as Chairman and Chief Executive Officer of HI TECH TRANS, LLC.

EA ID # PEA030001 - U131

This Administrative Order is issued pursuant to the authority vested in the Commissioner of the State of New Jersey, Department of Environmental Protection (hereinafter "NJDEP" or the "Department") by N.J.S.A. 13:1D-1 et seq., and the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. and the Solid Waste Utility Control Act N.J.S.A. 48:13A-1 et seq., and duly delegated to the Director, Division of County Environmental and Waste Enforcement Programs, pursuant to N.J.S.A.13:1B-4.

FINDINGS

1. HI TECH TRANS LLC, owns and operates a facility located at Bay Street, Oak Island Rail Yard, Newark, Essex County, New Jersey (ID# U131).
2. As the result of a site visit conducted on 04/16/2003, the Department has determined that HI TECH TRANS LLC, unlawfully failed to comply with applicable statutes and regulations of the State of New Jersey as follows:

Requirement: Pursuant to N.J.A.C. 7:26-2.8(f), "No person shall begin construction or operation of a solid waste facility ["SWF"] without obtaining a SWF Permit unless exempt pursuant to N.J.A.C. 7:26-1.1, 1.7 or 1.8."

Description of Noncompliance: On 4/16/03, DEP investigators obtained records demonstrating, or directly observed, the weighing of solid waste, tipping solid waste from roll-off containers into a roofless structure on the ground (called the "east box"), and then transferring that waste via grapple loader into rail cars. At least 700 cubic yards of ID # 13 and ID # 13C solid waste were observed being processed at the facility on this date. Thus, due to DEP investigators' observations of the receipt, tipping, and reloading of construction and demolition waste, the facility is operating as a solid waste facility. Because the facility does not possess a solid waste facility permit, registration, or engineering design, the facility is an illegal solid waste facility and thus operating in violation of N.J.A.C. 7:26-2.8(f), failure to obtain a SWF permit prior to constructing or operating a solid waste facility.

Requirement: Pursuant to N.J.A.C. 7:26H-1.6(a), "No person shall engage in the business of solid waste collection or solid waste disposal as defined by N.J.S.A. 48:13A-3 unless such person is the holder of a Certificate of Public Convenience and Necessity issued by the Department."

Description of Noncompliance: On 4/16/03, Department representatives observed HI TECH TRANS, LLC to be charging haulers money (a fee) to deposit waste at the facility. Because HI TECH TRANS, LLC possesses neither a Certificate of Public Convenience and Necessity nor a tariff, it is found to be in violation of N.J.A.C. 7:26H-1.6(a), failure to obtain a Certificate of Public Convenience and Necessity prior to engaging in the business of commercial solid waste disposal.

Requirement: The Solid Waste Management Act authorizes the DEP to hold liable any "person" who engages in proscribed solid waste activity. N.J.S.A. 13:1E-9(b)(4). The term "person" is defined by regulation to include "corporate official[s]." N.J.A.C. 7:26-1.4.

Description of Noncompliance: DAVID STOLLER, as Chairman and Chief Executive Officer of HI TECH TRANS, LLC, has actual responsibility for the operation of this illegal solid waste facility and was and is in a position to be able to prevent the occurrence of the violations set forth above but has failed to do so. As such, DAVID STOLLER is in violation of N.J.A.C. 7:26-2.8(f), failure to obtain a SWF permit prior to constructing or operating a solid waste facility; and N.J.A.C. 7:26H-1.6(a), failure to obtain a Certificate of Public Convenience and Necessity prior to engaging in the business of commercial solid waste disposal.

3. As the result of a compliance evaluation(s) conducted on 4/16/03, the Department has determined that HI TECH TRANS LLC, and DAVID STOLLER have violated the laws of the State of New Jersey as follows:
 - Operation of an unpermitted solid waste facility; and
 - Engaging in the commercial disposal of solid waste in New Jersey without having obtained a Certificate of Public Convenience and Necessity.
4. Based on the facts set forth in these FINDINGS, the Department has determined that HI TECH TRANS LLC, and DAVID STOLLER have violated the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq., and the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq., and the regulations promulgated pursuant thereto, specifically N.J.A.C. 7:26-2.8(f), and N.J.A.C. 7:26H-1.6(a).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

5. HI TECH TRANS LLC, and DAVID STOLLER shall, within 20 (twenty) calendar days of receipt of this Order, comply with the following:

CEASE AND DESIST the operation of the illegal solid waste facility by ceasing to accept, transfer, tip, process, transfer, load or reload solid waste. [N.J.A.C. 7:26-2.8(f)]; and

CEASE AND DESIST the operation of an uncertificated public utility by ceasing to accept, transfer, or dispose of, solid waste for a fee. [N.J.A.C. 7:26H-1.6]
6. This Order shall be effective upon receipt by HI TECH TRANS, LLC, or any officer or director thereof.

NOTICE OF RIGHT TO A HEARING

7. Pursuant to N.J.S.A. 13:1E-1 et seq., failure to comply with the terms of this Administrative Order may, in addition to any other civil administrative penalty assessed, subject the respondents to forfeiture of any economic benefit which a violator has realized as a result of not complying with, or by delaying compliance with, the requirements of the Act.
8. Pursuant to N.J.S.A. 52:14B-1 et seq., and N.J.S.A. 13:1E-9(e), HI TECH TRANS LLC, and DAVID STOLLER are entitled to request a hearing. HI TECH TRANS LLC, and DAVID STOLLER shall, in their request(s) for a hearing, complete and submit the enclosed ADMINISTRATIVE HEARING REQUEST AND CHECKLIST TRACKING FORM along with all required information. Submission or granting of a hearing request shall not stay the terms or effect of this ORDER.

9. If no request for a hearing is received within twenty (20) calendar days from receipt of this Administrative Order, it shall become a Final Order upon the twenty-first (21st) calendar day following its receipt.

GENERAL PROVISIONS

10. This Administrative Order is binding on HI TECH TRANS, LLC, its principals, directors, officers, agents, successors, assigns, employees, tenants, any trustee in bankruptcy or other trustee, and any receiver appointed pursuant to a proceeding in law or equity. This Administrative Order is binding upon DAVID STOLLER individually and in his capacity as Chairman and Chief Executive Officer of HI TECH TRANS, LLC.
11. This Administrative Order is issued only for the violation(s) identified in the FINDINGS hereinabove. Therefore, be advised that violation of any statutes, rules or permits other than those herein cited may be cause for additional enforcement actions, either administrative or judicial. By issuing this Administrative Order, NJDEP does not waive its rights to initiate additional enforcement actions, including but not limited to the assessment of penalties or other remedies for failure to immediately comply with the requirements of this Order.
12. Neither the issuance of this Administrative Order nor anything contained herein shall relieve HI TECH TRANS LLC, or DAVID STOLLER of the obligation to comply with all applicable laws, including but not limited to the statutes and regulations cited herein.
13. Pursuant to N.J.S.A. 13:1E-9e, NJDEP is authorized to assess a civil administrative penalty of not more than \$50,000 for each violation, and each day during which the violation continues shall constitute an additional, separate and distinct offense.
14. Pursuant to N.J.S.A. 13:1E-9f, any person who violates the provisions of N.J.S.A. 13:1E-1 et seq. or any code, rule, or regulation promulgated pursuant thereto shall be liable to a penalty of not more than \$50,000 per day to be collected in a civil action, and any person who violates an administrative order issued pursuant to N.J.S.A. 13:1E-9c, including this Administrative Order, or a court order issued pursuant to N.J.S.A. 13:1E-9d, or who fails to pay a civil administrative penalty assessed pursuant to N.J.S.A. 13:1E-9e in full after it is due is subject upon order of a court to a civil penalty not to exceed \$100,000 per day of such violations. Each day during which the violation continues constitutes an additional, separate and distinct offense.
15. Pursuant to N.J.S.A. 48:13A-12(b), any person who shall violate any provisions of the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq., or the Solid Waste Collection Regulatory Reform Act, N.J.S.A. 48:13A-7 et seq., or any rule, regulation or administrative order adopted or issued pursuant thereto, including an interdistrict, intradistrict or interstate waste flow order, or who shall engage in the solid waste collection or solid waste disposal business without having been issued a certificate of public convenience and necessity, shall be liable to a penalty of not more than \$10,000 for a first offense, not more than \$25,000 for a

second offense and not more than \$50,000 for a third and every subsequent offense. Each day during which the violation continues constitutes an additional, separate and distinct offense.

16. Notice is further given that, pursuant to N.J.S.A. 48:13A-12(c), whenever it shall appear to the Department, a municipality, local board of health, or county health department, as the case may be, that any person has violated, intends to violate, or will violate any provision of the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq., or the Solid Waste Collection Regulatory Reform Act, N.J.S.A. 48:13A-7.1 et seq., or any rule, regulation or administrative order adopted or issued pursuant thereto, the Department, the municipality, local board of health or county health department may institute a civil action in the Superior Court for injunctive relief and for such other relief as may be appropriate in the circumstances and the court may proceed in any action in a summary manner.
17. Notice is further given that, pursuant to the Solid Waste Utility Control Act, N.J.S.A. 48:13A-1 et seq., specifically N.J.S.A. 48:13A-12(a), any person or officer or agent thereof who shall knowingly violate any of the provisions of this Act or aid or advise in such violation, or who, as principal, manager, director, agent, servant, or employee knowingly does any act comprising a part of such violation, is guilty of a crime of the fourth degree and shall be punished by imprisonment for not more than 18 months or by a fine of not more than \$50,000, or both; and if a corporation by a fine of not more than \$100,000. Each day during which the violation continues constitutes an additional, separate and distinct offense.

DATE:

Wolfgang Skacel, C.H.M.M., Director
Division of County Environmental and Waste Enforcement
Programs

**Administrative Hearing Request Checklist
and Tracking Form**

Document Being Appealed: **EA ID #** PEA030001 - U131

Person Requesting Hearing:	_____
	Date Document Issued
_____	_____
Name/Company	Name of Attorney (if applicable)
_____	_____
Address	Address
_____	_____
Telephone #	Telephone #

Please Include the Following Information As Part of Your Request:

- A The date the alleged violator received the Enforcement Document.
- B **A copy of the Enforcement Document** and a list of all issues being appealed.
- C An admission or denial of each of the findings of fact, or a statement of insufficient knowledge;
- D The defenses to each of the findings of fact in the enforcement document;
- E Information supporting the request;
- F An estimate of the time required for the hearing;
- G A request, if necessary, for a barrier-free hearing location for physically disabled persons;
- H A clear indication of any willingness to negotiate a settlement with the Department prior to the Department's processing of your hearing request to the Office of Administrative Law; and
- I This form, completed, signed and dated with all of the information listed above, including attachment, to:
 - 1. New Jersey Department of Environmental Protection
Office of Legal Affairs
Attention: Adjudicatory Hearing Requests
401 E. State Street, P.O. Box 402
Trenton, New Jersey 08625
 - 2. A. Raimund Belonzi, Chief
Waste Compliance and Enforcement & Release Prevention
Bureau of Solid Waste Compliance and Enforcement
P.O. Box 407
Trenton, New Jersey 080625-0407

3. All co-permittees (w/attachments)

IV. Signature: _____ Date: _____