

Berkowitz Fat Co., Inc.,
Harry Berkowitz Industries, Inc.,
Seymour Berkowitz, Individually
City of Newark, Essex County

The Berkowitz Fat Company (“Berkowitz Fat”) is a rendering plant facility located at 38-42 Bay Avenue, Newark NJ 07105. Rendering plants cook meat wastes (including discarded animal materials carcasses, carcasses, trimmings, grease and fat from butchers, restaurants, grocery stores) to make oils for paints/varnishes, tallow for soaps/cold cream/make-up and protein meal/bone meal of cow/sheep feed. Berkowitz is a family run business and had been operating at the location in the Ironbound Section of Newark for over 50 years

In the summer of 2005, then Assistant Commissioner Jackson encountered Berkowitz odors while on a boat tour of the Passaic River. DEP’s Air Pollution Enforcement staff investigated and started what became a multi-program/multi-media effort of behalf of DEP’s Compliance & Enforcement Programs to address horrific conditions and sloppy operations at the facility, which was using discharges to waters of the state and odors/emissions that impacted public health.

Starting with the air pollution program, numerous compliance evaluation and assistance inspections were conducted over a two year period by C&E including water, solid and hazardous waste. Numerous violations of the Air Pollution Control Act, N.J.S.A. 26:2C-1, the Water Pollution Control Act, N.J.S.A. 58:10A-1 *et seq.*, the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 *et seq.* and the Solid Waste Management Act, N.J.S.A. 13:1E-1 *et seq.* were documented. These violations stemmed from horrendous operating practices that included the receipt of over 1 million pounds of meat waste each week, without proper storage facilities and processing equipment that frequently broke down and did not have required emissions controls. Meat was stored uncovered on a small concrete pad or in un-refrigerated trucks causing blood/grease/fat to discharge on the surrounding unpaved ground. Blood, grease and animal parts littered the site and collected in pools with crankcase fluids, motor-oil, kerosene from junked vehicles strewn all over the site. Equipment, wastes and product (tallow, oils, bone meal) was stored haphazardly everywhere.

Increased enforcement pressure resulted in the issuance of multiple Notices of Violations and Administrative Orders and Notices of Civil Administrative Penalty Assessment (“AONOCAPA’s”) to the facility totaling in excess of 2 million. In February of 2007, Mr. Berkowitz refused entry to DEP inspectors. C&E working with the AG’s office executed an administrative search warrant with state troopers to obtain access and records from the facility. All the while, the company refused to address the egregious violations and the building public nuisance

On May 10, 2007 DEP, working with the City of Newark and Passaic Valley Sewage Commission filed a Complaint and Order to Show Cause and obtained an Order on May 11, 2007 requiring Berkowitz Fat to take certain remedial steps. Berkowitz Fat completely disregarded the Court's Order and the State made an additional application to the Court that yielded a second Court Order on June 12, 2007 shutting down operations until Berkowitz Fat could comply with all laws and regulations and cleanup the site.

DEP's Emergency Response Program entered the site in the early summer of 2007 to address the immediate concerns posed by the gross contamination outside of the building on-site. Emergency Response staff and contractors endured terrible conditions to remove the meat waste, hazardous wastes, to clean the surface of the soils, and remove the drums of improperly stored wastes and products in 90+ degrees. This resulted in the removal of 18 roll-offs of meat waste, 99,3666 gallons of oil/liquids/sludge, 51 roll-off containers of solids (soils mixed with meat waste and oils) and decontaminated 22 company vehicles storing waste on site - all within the space of 32 days - thereby alleviating the majority of public nuisance concerns to the community.

The Division of Criminal Justice obtained an indictment against the owner, Seymour Berkowitz. The DOL working with C&E, the City of Newark and PVSC obtained a final order from the court on August 1 2007 which prevented the company from starting operations again without DEP's and Newark's consent. Based upon Newark's building and construction code authorities, the company's structures were condemned as unsafe and under the court order, no-one from the company would be allowed back in the buildings or on the site due to the safety hazards. In addition, the federal Dept of Labor is looking into the company's treatment of its employees.

Unfortunately, since the cleanup and shutdown of the property, vandals have entered the site causing structural damage to the buildings and dumping on the property. Currently, the Department and DOL are conducting negotiations with Berkowitz about settling the penalty and cleanup costs. In addition, they are working with the Brownfields program, the City of Newark and bank (Summit Trust) that has a lien on the property to devise a strategy to finish the cleanup and return the property to use. The facility's location adjacent to a Conrail line makes it attractive for redevelopment and using a monetary payment for a Supplemental Environmental Project (SEP) from a settlement with Trans Load America, there may be momentum to achieve this goal.

Two hearings have been schedule from October 1, 2009, to October 29, 2009, to appeal two AONOCAPAs issued by the Department for violations of the Water Pollution Control Act.