

IN THE COMMON PLEAS COURT
BELMONT COUNTY, OHIO

COMMON PLEAS COURT
BELMONT CO. OH

2024 MAY -1 AM 10:56

STATE OF OHIO, ex rel.
DAVE YOST,
OHIO ATTORNEY GENERAL
30 E. Broad Street
Columbus, Ohio 43215,

Plaintiff,

v.

AUSTIN MASTER SERVICES, LLC
6000 Town Center Boulevard
Suite 210
Canonsburg, Pennsylvania 15317
c/o Business Filings Incorporated
Statutory Agent
4400 Easton Commons Way
Suite 125
Columbus, Ohio 43219,

and

AMERICAN ENVIRONMENTAL
PARTNERS, INC.
6000 Town Center Boulevard
Suite 210
Canonsburg, Pennsylvania 15317
c/o Hart & Hart, LLC
Statutory Agent
1624 North Washington Street
Denver, Colorado 80203,

and

BRAD J. DOMITROVITSCH
1648 Washington Avenue
Northampton, Pennsylvania 18067,

Defendants.

CASE NO. 24 CV 79

DAURA A. ZUPKO
CLERK OF COURT

JUDGE JOHN A. VAVRA

FIRST AMENDED
COMPLAINT FOR
INJUNCTIVE RELIEF AND
CIVIL PENALTIES

(end of caption)

NATURE OF THE ACTION

Defendants have committed egregious violations of Ohio law at their oil and gas waste facility in Martins Ferry, Ohio. At the top of the list, Defendants have allowed tons of waste, some of which is radioactive, to far exceed its permitted storage capacity. Defendants have also allowed radioactive liquids and sludge to flow uncontained on the floor of its facility.

Furthermore, Defendants have used unpermitted storage containers in violation of its waste facility permit.

By failing to properly store waste, Defendants risk the release of harmful contaminants into the groundwater, into or on the land, or into surface waters, including into the Ohio River and a nearby drinking water source. Pursuant to R.C. 1509.04(G) and R.C. 1509.33(H), the State of Ohio, on relation of Attorney General Dave Yost and at the request of the Chief of the Division of Oil and Gas Resources Management, Ohio Department of Natural Resources (“Chief”), brings this action to enforce Ohio’s oil and gas laws, codified in R.C. Chapter 1509 and the rules promulgated thereunder. The State of Ohio alleges as follows:

GENERAL ALLEGATIONS

1. The defendants in this action are Austin Master Services, LLC; Brad D. Domitrovitsch; and American Environmental Partners, Inc. (collectively, “Defendants”). Defendants are the proper parties to be named in this Complaint. At all times relevant to this Complaint, each Defendant is, and has been, a “person” as defined in R.C. 1.59(C) and 1509.01(T).

Defendant Austin Master Services, LLC, and the Facility

2. Defendant Austin Master Services, LLC (“AMS”), is an active Pennsylvania limited liability company with its registered office, according to the Pennsylvania Department of State, located at 6000 Town Center Boulevard, Suite 210, Canonsburg, Pennsylvania 15317.

3. AMS is registered with the Ohio Secretary of State as a foreign for-profit limited liability company whose statutory agent is listed as Business Filings Incorporated, 4400 Easton Commons Way, Suite 125, Columbus, Ohio 43219.

4. AMS is a “permittee” as defined in Ohio Adm.Code 1501:9-4-01(II).

5. AMS is the permittee and operator of the AMS Martins Ferry Facility (“Facility”) and is registered with the Division of Oil and Gas Resources Management (“Division”) as Owner # 35014.

6. The Facility is located at 801 North First Street, Martins Ferry, Belmont County, Ohio, which is situated approximately 500 feet from the Ohio River and approximately 1000 feet from the City of Martins Ferry’s drinking water field.

7. The Facility is an “oil and gas waste facility” as defined in Ohio Adm.Code 1501:9-4-01(DD).

8. The Facility was initially authorized to store, treat, and process brine and other oil and gas exploration and production waste substances in 2014, pursuant to Chief’s Order 2014-541.

9. In January 2022, Ohio Adm.Code Chapter 1501:9-4 became effective. Among other things, the rules in that chapter (1) govern the process to obtain a permit to store, recycle, treat, and process brine and oil and gas waste substances; (2) set operational standards for permitted oil and gas waste facilities; and (3) specify some of the enforcement procedures concerning oil and gas waste facilities, such as the Facility operated by AMS.

10. On or about June 22, 2022, the Division received an oil and gas waste facility permit application from AMS.

11. On July 12, 2022, the Division issued permit number WF-2022-05 approving AMS's permit application and authorizing AMS to construct the Facility in accordance with the permit application ("Permit"). See Exhibit 1, the Permit.¹

12. On July 12, 2022, the Division issued a Letter of Commencement authorizing AMS to operate the Facility in accordance with the Permit and incorporated permit [REDACTED] application [REDACTED] and Ohio law.

13. As the permittee and operator of the Facility, AMS is subject to regulation by the Division pursuant to R.C. Chapter 1509 and Ohio Adm.Code Chapter 1501:9.

Defendant American Environmental Partners, Inc.

14. Defendant American Environmental Partners, Inc. ("AEPT") is an active Colorado corporation with its principal office, according to the Colorado Secretary of State, located at 6000 Town Center Boulevard, Suite 210, Canonsburg, Pennsylvania 15317.

15. AEPT is the parent corporation of AMS.

16. AEPT is liable for the violations alleged in this Complaint. AEPT, by virtue of its position as the parent corporation of AMS, alone or in conjunction with others, caused, participated in, controlled, and/or ordered the violations of law alleged in this Complaint. AEPT knew about or should have known about the violations of law alleged in this Complaint, and by itself or in conjunction with others, had the authority to prevent or stop these violations, but failed to exercise its authority to do so.

17. In addition, or in the alternative, AEPT is liable for the violations alleged in this Complaint because it exerted such complete control over AMS that AMS has no separate mind,

¹ Exhibit 1 is the permit and a partial copy of approved permit application. Because the complete application is over 300 pages long and contains documents that are both unnecessary for the Complaint and protected from public disclosure under R.C. 149.433, the State is submitting only the portions of the permit application that are relevant to the allegations in the Complaint.

will, or existence of its own; exercised control over AMS in such a manner as to commit fraud, an illegal act, or similarly unlawful acts, when AEPT, in 2024, committed violations of Ohio Oil and Gas laws and rules; and causing injury or unjust loss to the State of Ohio from such control or wrong, including, but not limited to, environmental harm or the threat of environmental harm.

18. As the parent corporation of AMS, AEPT is subject to regulation by the Division pursuant to R.C. Chapter 1509 and Ohio Adm.Code Chapter 1501:9.

Defendant Brad D. Domitrovitsch

19. Defendant Brad D. Domitrovitsch (“Mr. Domitrovitsch”) is the Chief Executive Officer, Chief Financial Officer, and Chairman of the Board of AEPT.

20. Mr. Domitrovitsch is the owner and/or officer and/or employee and/or agent of AMS.

21. Mr. Domitrovitsch’s last known street address is 1648 Washington Avenue, Northampton, Pennsylvania 18067.

22. Mr. Domitrovitsch is personally liable for the violations alleged in this Complaint. He, by virtue of his position as owner and/or officer and/or employee and/or agent of AMS, alone or in conjunction with others, caused, participated in, controlled, and/or ordered the violations of law alleged in this Complaint. He knew about or should have known about the violations of law alleged in this Complaint, and by himself or in conjunction with others, had the authority to prevent or stop these violations, but failed to exercise his authority to do so.

23. In addition, or in the alternative, Mr. Domitrovitsch is liable for the violations alleged in this Complaint because he exerted such complete control over AMS that AMS had no separate mind, will, or existence of its own; exercised control in such a manner as to commit fraud, an illegal act, or similarly unlawful acts when he, in 2024, committed violations of Ohio

Oil and Gas laws and rules; and causing injury or unjust loss to the State of Ohio from such control or wrong, including, but not limited to, environmental harm or the threat of environmental harm.

24. Mr. Domitrovitsch is personally liable for the violations alleged in this Complaint. He, by virtue of his position as officer of AEPT, alone or in conjunction with others, caused, participated in, controlled, and/or ordered the violations of law alleged in this Complaint. He knew about or should have known about the violations of law alleged in this Complaint, and by himself or in conjunction with others, had the authority to prevent or stop these violations, but failed to exercise his authority to do so.

25. In addition, or in the alternative, Mr. Domitrovitsch is liable for the violations alleged in this Complaint because he exerted such complete control over AEPT that AEPT had no separate mind, will, or existence of its own; exercised control in such a manner as to commit unlawful acts when he, in 2024, committed violations of Ohio Oil and Gas laws and rules; and causing injury or unjust loss to the State of Ohio from such control or wrong, including, but not limited to, environmental harm or the threat of environmental harm.

26. As the owner and/or officer and/or employee and/or agent of AMS and AEPT, Mr. Domitrovitsch is subject to regulation by the Division pursuant to R.C. Chapter 1509 and Ohio Adm.Code Chapter 1501:9.

Ohio's Laws and Rules Governing Oil and Gas Waste Facilities

27. R.C. 1509.02 grants the sole and exclusive authority to regulate oil and gas activities to the Chief including activities associated with the storage, recycling, treatment, processing, and disposal of brine and other waste substances.

28. R.C. 1509.22(C) provides that the Chief “shall adopt rules regarding, storage, recycling, treatment, processing, and disposal of brine and other waste substances.”

29. Pursuant to R.C. 1509.03(A), “[t]he [C]hief shall adopt, rescind, and amend, in accordance with Chapter 119 of the Revised Code, rules for the administration, implementation, and enforcement of this chapter. * * *” Specifically, these rules shall address, among other subjects, containment and disposal of drilling and production wastes. R.C. 1509.03(A)(4).

30. R.C. 1509.03(A) also provides that “[n]o person shall violate any rule of the [C]hief adopted under this chapter.”

31. The Division administers a regulatory program that includes radiological health and safety protections for workers and the public from radiation in technologically enhanced naturally occurring radioactive material waste resulting from activities regulated by the Division. Such regulation is necessary for oil and gas waste facilities that store, recycle, treat, and process brine and oil and gas waste substances.

32. Ohio Adm.Code 1501:9-4-06(C)(1)(d) provides that, with regard to the operational requirements and standards for the storage of brine and other waste substances, “[p]rimary containment shall not overflow. Secondary containment shall not be used as primary containment.”

33. Ohio Adm.Code 1501:9-4-01(HH) defines “other waste substances,” “waste substance,” and “waste” as “a substance that results from the exploration, development, well stimulation, production operations, or plugging of oil and gas resources.

34. “Primary containment” is defined at Ohio Adm.Code 1501:9-4-01(NN) as “a structure or equipment that is or will be in direct contact with brine or with other waste

substances to prevent a release of the brine or other waste substance, including but not limited to a tank, vessel, dike, pipe, liner, vault, or other equipment.”

35. “Secondary containment” is defined at Ohio Adm.Code 1501:9-4-01(BBB) as “a structure, including but not limited to, a tank, vessel, berm, dike, pipe, liner, vault, curbing, drip pan, sump, or other equipment constructed or placed in a manner to temporarily contain a release of brine or other waste substance from primary containment and to prevent the brine or other waste substance from coming into contact with the ground water or the land, or to be discharged or likely to be discharged into surface water.”

36. Ohio Adm.Code 1501:9-4-05(C)(1) requires that a request for a Division-approved amendment to the permit for an oil and gas waste facility “shall be submitted in writing to the [C]hief *prior to* implementation of any revision to an oil and gas waste facility.” (Emphasis added.)

37. Ohio Adm.Code 1501:9-4-05(B) states that “[n]o permittee shall * * * implement an amendment to an approved permit without a letter of commencement signed by the [C]hief.”

38. Ohio Adm.Code 1501:9-4-04(B)(1) (eff. January 13, 2022) states that “[o]n and after the effective date of this rule, no person may begin construction of or modify, amend, alter, or revise an oil and gas waste facility prior to issuance of a permit by the [C]hief approving an application submitted under this rule.”

39. Ohio Adm.Code 1501:9-4-06(A) requires “any person who stores, recycles, treats, processes, or disposes of brine or other waste substances at an oil and gas waste facility shall comply with all the operational requirements and standards in this rule * * *.”

40. One operational requirement under Ohio Adm.Code 1501:9-4-06(D)(1) is that all solids must be stored within primary and secondary containment. Another operational

requirement under Ohio Adm.Code 1501:9-4-06(D)(4) is that any liquid that comes into contact with solids must be captured and lawfully managed or disposed of.

41. Ohio Adm.Code 1501:9-4-06(F) requires that oil and gas waste facilities have a monitoring and inspection procedure in place for which an employee shall be “present onsite during all times of offloading, loading, treating, processing, or recycling of other waste substances.”

42. Ohio Adm.Code 1501:9-4-06(F)(1)(a) requires implementation of “an inspection procedure and schedule for all equipment containment systems, pipelines, and other appurtenances at the oil and gas facility.”

43. Ohio Adm.Code 1501:9-4-06(F)(1)(b) states the “inspection procedure is to ensure all equipment and other appurtenances associated with the oil and gas waste facility are maintained in a safe and functional manner.”

44. R.C. 1509.03(D) states in part that “[n]o person shall violate any order of the [C]hief issued under this chapter. No person shall violate a term or condition of a permit or registration certificate issued under this chapter.”

45. Ohio Adm.Code 1501:9-4-04(A) provides that “[a]n oil and gas waste facility shall be designed, constructed, and operated in a manner that safely supports the proposed operations occurring at the oil and gas waste facility and in a manner that protects public health and safety and prevents damage to the environment.”

46. Ohio Adm.Code 1501:9-4-02(G)(1) provides, in pertinent part:

A person, prior to construction and operation of an oil and gas waste facility, shall execute and file with the division financial assurance conditioned on compliance with Chapter 1509. of the Revised Code, division 1501:9 of the Administrative

Code, and all rules and orders issued pursuant to either. The financial assurance must be payable to the state as obliged and calculated by either of the following:

(a) Multiplying the permitted total nominal amount of storage, processing, and treatment volume by ten dollars for each barrel of liquid and three hundred twenty-five for each cubic yard of solid waste; or

(b) An amount determined by performing a closure cost study that meets the requirements established in rule 1501:9-4-07 of the Administrative Code. The study shall be based on a third party conducting the post-closure activities. The [C]hief may review, accept, or require revisions to the closure cost study.

47. Pursuant to R.C. 1509.33(H), “[t]he Attorney General, upon the request of the [C]hief * * *, shall commence an action under this section against any person who violates sections 1509.01 to 1509.31 of the Revised Code, or any rules adopted * * * pursuant to these sections.”

48. R.C. 1509.04(G) states that “the [A]ttorney [G]eneral, upon request of the [C]hief, may apply to the court of common pleas in the county in which any of the provisions of this chapter or any rules * * * adopted or issued pursuant to this chapter are being violated for a temporary restraining order, preliminary injunction, or permanent injunction restraining any person from such violation.”

49. R.C. 1509.33(A) states that “[w]hoever violates sections 1509.01 to 1509.31 of the Revised Code, or any rules adopted or orders or terms or conditions of a permit or registration certificate issued pursuant to these sections for which no specific penalty is provided in this section, shall pay a civil penalty of not more than ten thousand dollars for each offense.”

50. R.C. 1509.33(G) states in part that “[i]n addition to any other penalties provided in this chapter, whoever violates * * * a term or condition of a permit or an order issued by the [C]hief * * * is liable for any damage or injury caused by the violation and for the actual cost of rectifying the violation and conditions caused by the violation.”

51. R.C. 1509.33(I) states that “[f]or purposes of this section, each day of violation constitutes a separate offense.”

Violations of Ohio’s Oil and Gas Laws and Rules

52. On February 7, 2024, Division staff inspected the Facility and observed that solid waste accumulation at the Facility exceeded the primary containment storage capacity and that the Facility’s secondary containment was being used as primary containment.

53. Division staff also observed that three unpermitted roll-off containers (or dumpsters) and an unpermitted green frac tank were being used to store waste. The roll-off containers and green frac tank were not, and are not, approved for storage of waste substances under the Permit.

54. On February 7, 2024, the Division issued a Notice of Violation requiring AMS to remove waste from the Facility as needed to maintain an accumulation equal to or less than the capacity of permitted primary containments and to submit a request for an amendment of the Permit for the addition of the three roll-off containers and green frac tank. The Notice of Violation required AMS to complete these requirements by March 15, 2024.

55. On March 15, 2024, Division staff conducted a follow-up inspection of the Facility and observed worsened conditions. AMS allowed the primary containment to overflow and was continuing to use secondary containment as the primary containment. Free liquid and sludge were also observed on the floor of the Facility. Also, the amount of waste material outside

containment had increased rather than decreased from the prior inspection, indicating that AMS had continued to accept waste rather than remove waste as required by the February 7, 2024 Notice of Violation.

56. Additionally, from on or before February 7, 2024, to at least March 15, 2024, AMS maintained gondola railcars filled with waste at the Facility Under the Permit, AMS is authorized to store waste in the gondola railcars only on a temporary basis, meaning no longer than 72 hours.

57. On March 15, 2024, the Division issued a second Notice of Violation requiring AMS to immediately remove and lawfully dispose of all liquid waste outside primary containment, to remove solid waste from the facility to maintain an accumulation equal to or less than the capacity of permitted primary containments, and to develop and submit for approval an inspection procedure and a standard form for recording inspection data.

58. Following the Division's March 15, 2024 inspection, AMS, that same day, terminated most if not its entire staff except for its radiation safety officer.

59. AMS' radiation safety officer then resigned on March 21, 2024.

60. To date, AMS' staff has not been replaced.

61. Since March 15, 2024, AMS has not been conducting inspections on a schedule to ensure maintenance of equipment and other appurtenances in a safe and functional manner.

62. In response to AMS' additional violations and its failure to complete the corrective actions required by the notifications of violation, on March 19, 2024, the Division issued Chief's Order 2024-78 (attached as Exhibit 2, exhibits originally attached to this Chief's order are not included), which:

A. Suspends operations at the Facility;

- B. Requires AMS to cease accepting waste at the Facility;
- C. Orders AMS to remove all liquids from the Facility floor and secondary containment areas; and
- D. Requires AMS to provide financial assurance within 14 days in accordance with Ohio Adm.Code 1501:9-4-02(G)(1) for the storage capacity of the railcars and additional waste volumes being stored at the Facility exceeding the Permit allowance.

63. On April 17, 2024, following an informal hearing between the Division, counsel for AMS, and Mr. Domitrovitsch, the Division issued a final suspension order, Chief's Order 2024-100 (Exhibit 3, as attached) against AMS. Chief's Order 2024-100 required AMS to:

- A. Remove all liquids from the Facility floor and secondary containment and keep those areas free from liquid waste;
- B. Provide financial assurance within 14 days after receipt of the final suspension order for the storage capacity of the railcars and additional waste volumes being stored at the Facility;
- C. No later than by April 17, 2024, take all actions that are necessary to comply with the terms of its permit application approved by Permit WF 2022-05, R.C. Chapter 1509, and rules adopted under it, including the Court's Preliminary Injunction Order; and
- D. Submit for review a written plan 14 days after receipt of the final suspension order that describes all actions AMS has taken to correct the violations and that outlines in detail AMS' plan to prevent future violations.

64. To date, AMS has not completed each of the corrective actions required by the two Notices of Violation and Chief's Orders 2024-78 and 2024-100.

65. Since April 10, 2024, the Division has removed 225 barrels (9,450 gallons) of processed wastewater from the Facility for disposal, and has incurred actual costs in the process. As necessary, the Division intends to remove additional wastewater from the Facility in order to prevent the release of harmful contaminants into the environment.

Jurisdiction and Venue

66. The acts alleged in this Complaint arise from "transacting any business in this state" or, in the alternative, "contracting to supply services or goods in this state," for purposes of R.C. 2307.382(A)(1) and (A)(2) and Civ.R. 4.3(A)(1) and (A)(2).

67. The Court has jurisdiction over the subject matter of this action, personal jurisdiction over Defendants, and authority to grant the relief requested under R.C. 1509.04, 2307.382, and 1509.33.

68. At all times and locations relevant to this Complaint, Defendants have purposefully availed themselves of this forum. The activities and failures to act, and the control, authority, direction, and responsibility over the activities and failures to act occurred in Belmont County, Ohio and caused all the violations alleged in this Complaint. Defendants have transacted business and/or contracted to supply services or goods in Ohio, and in Belmont County specifically, or have an interest in, use, and/or possesses real property in Ohio and in Belmont County.

69. As the allegations in the Complaint reveal, the exercise of specific jurisdiction over Defendants is proper and consistent with due process.

70. This matter was referred, in writing, by the Chief to the Attorney General for enforcement purposes under R.C. 1509.04(G) and 1509.33(H).

71. Venue is proper in this Court pursuant to Civ.R. 3(C)(3), (5), and (6).

72. Pursuant to Civ.R. 8(A), Plaintiff states this Complaint seeks penalties in excess of twenty-five thousand dollars (\$25,000).

Allegations Incorporated into Claims for Relief

73. The general allegations set forth above are incorporated into each of the following Counts of this Complaint as if fully rewritten therein.

COUNT ONE

Allowing primary containment to overflow in violation of Ohio Adm.Code 1501:9-4-06(C)(1)(d)

74. R.C. 1509.03(A) states that “[n]o person shall violate any rule of the [C]hief adopted under this chapter.”

75. Ohio Adm.Code 1501:9-4-06(C)(1)(d) states that “[p]rimary containment shall not overflow.”

76. Beginning on or before February 7, 2024, and continuing to the present, including any days occurring after the filing of this Complaint, Defendants have allowed solid waste accumulation at the Facility in excess of the primary containment storage capacity, causing the solid waste to overflow out of primary containment, and allowing free liquid and viscous sludge to overflow out of primary containment.

77. The acts and omissions described in this count constitute violations of R.C. 1509.03(A) and Ohio Adm.Code 1501:9-4-06(C)(1)(d), for which Defendants are jointly and severally liable and subject to injunctive relief pursuant to R.C. 1509.04(G) and jointly and severally liable for civil penalties of up to ten thousand dollars (\$10,000) per violation pursuant

to R.C. 1509.33(A). Each day of violation constitutes a separate offense pursuant to R.C. 1509.33(I), including each day of violation after the filing of this Complaint.

COUNT TWO

Using secondary containment as primary containment in violation of Ohio Adm.Code 1501:9-4-06(C)(1)(d)

78. R.C. 1509.03(A) states that “[n]o person shall violate any rule of the [C]hief adopted under this chapter.”

79. Ohio Adm.Code 1501:9-4-06(C)(1)(d) provides that “[s]econdary containment shall not be used as primary containment.”

80. Beginning on or before February 7, 2024, and continuing to the present, including any days occurring after the filing of this Complaint, Defendants have used secondary containment as primary containment at the Facility. The Defendants have allowed solids and liquids to accumulate beyond the limits of primary containment and to overflow and be stored in secondary containment.

81. The acts and omissions described in this count constitute violations of R.C. 1509.03(A) and Ohio Adm.Code 1501:9-4-06(C)(1)(d), for which Defendants are jointly and severally liable and subject to injunctive relief pursuant to R.C. 1509.04(G) and jointly and severally liable for civil penalties of up to ten thousand dollars (\$10,000) per violation pursuant to R.C. 1509.33(A). Each day of violation constitutes a separate offense pursuant to R.C. 1509.33(I), including each day of violation after the filing of this Complaint.

COUNT THREE

Using three roll-off containers, a green frac tank, and gondola railcars to store waste substances without obtaining an amendment to the Permit in violation of Ohio Adm.Code 1501:9-4-05(C)(1), 1501:9-4-05(B), and 1501:9-4-04(B)(1)

82. R.C. 1509.03(A) states that “[n]o person shall violate any rule of the [C]hief adopted under this chapter.”

83. Ohio Adm.Code 1501:9-4-05(C)(1) requires a request for a Division-approved amendment to an oil and gas waste facility permit “prior to implementation of any revision to an oil and gas facility.”

84. Ohio Adm.Code 1501:9-4-05(B) states that “[n]o permittee shall . . . implement an amendment to an approved permit without a letter of commencement signed by the [C]hief.”

85. Ohio Adm.Code 1501:9-4-04(B)(1) states that “[o]n and after the effective date of this rule, no person may begin construction of or modify, amend, alter, or revise an oil and gas waste facility prior to issuance of a permit by the [C]hief approving an application submitted under this rule.”

86. Beginning on or before February 7, 2024, and continuing to the present, including any days occurring after the filing of this Complaint, Defendants have used three unpermitted roll-off containers and an unpermitted green frac tank to store waste substances.

87. The roll-off containers and green frac tank are not approved for storage of waste substances under the Permit.

88. Under the Permit, AMS is authorized to store waste in the gondola railcars only on a temporary basis, no longer than 72 hours.

89. Beginning on or before February 7, 2024, and continuing to the present, including any days occurring after the filing of this Complaint, Defendants have stored waste in gondola railcars at the Facility for more than 72 hours.

90. To date, Defendants have not submitted a request for an amendment to the Permit that would allow storage of waste in the roll-off containers and green frac tank, nor have Defendants submitted a request for an amendment to the Permit that would allow storage of waste in gondola railcars at the Facility for more than 72 hours.

91. The acts and omissions described in this count constitute violations of R.C. 1509.03(A) and Ohio Adm.Code 1501:9-4-05(C)(1), 1501:9-4-05(B) and 1501:9-4-04(B)(1), for which Defendants are jointly and severally liable and subject to injunctive relief pursuant to R.C. 1509.04(G) and jointly and severally liable for civil penalties of up to ten thousand dollars (\$10,000) per violation pursuant to R.C. 1509.33(A). Each day of violation constitutes a separate offense pursuant to R.C. 1509.33(I), including each day of violation after the filing of this Complaint.

COUNT FOUR

Failing to properly store all solids in violation of Ohio Adm.Code 1501:9-4-06(D)(1)

92. R.C. 1509.03(A) states that “[n]o person shall violate any rule of the [C]hief adopted under this chapter.”

93. Ohio Adm.Code 1501:9-4-06(A) requires “any person who stores, recycles, treats, processes, or disposes of brine or other waste substances at an oil and gas waste facility shall comply with all the operational requirements and standards in this rule[.]”

94. One operational requirement under Ohio Adm.Code 1501:9-4-06(D)(1) is that all solids must be stored within primary and secondary containment.

95. Beginning on or before February 7, 2024, and continuing to the present, including any days occurring after the filing of this Complaint, Defendants have failed to store solid waste within primary and secondary containment, as solid waste has overflowed out of primary containment; sludge has overflowed out of primary containment; Defendants have used unpermitted roll-off containers and an unpermitted green frac tank to store solid waste substances at the Facility; and Defendants have stored solid waste in the gondola railcars for more than 72 hours without the authority to do so.

96. The acts and omissions described in this count constitute violations of R.C. 1509.03(A) and Ohio Adm.Code 1501:9-4-06(A), for which Defendants are jointly and severally liable and subject to injunctive relief pursuant to R.C. 1509.04(G) and jointly and severally liable for civil penalties of up to ten thousand dollars (\$10,000) per violation pursuant to R.C. 1509.33(A). Each day of violation constitutes a separate offense pursuant to R.C. 1509.33(I), including each day of violation after the filing of this Complaint.

COUNT FIVE

Failing to capture and lawfully manage or dispose of any liquid that comes in contact with solids in violation of Ohio Adm.Code 1501:9-4-06(D)(4)

97. R.C. 1509.03(A) states that “[n]o person shall violate any rule of the [C]hief adopted under this chapter.”

98. One operational requirement under Ohio Adm.Code 1501:9-4-06(D)(4) is that any liquid that comes into contact with solids must be captured and lawfully managed or disposed of.

99. Beginning on or before February 7, 2024, and continuing to the present, including any days occurring after the filing of this Complaint, Defendants failed to capture and lawfully manage or dispose of liquids that came in contact with solids on the Facility floor.

100. The acts and omissions described in this count constitute violations of R.C. 1509.03(A) and Ohio Adm.Code 1501:9-4-06(D)(4), for which Defendants are jointly and severally liable and subject to injunctive relief pursuant to R.C. 1509.04(G) and jointly and severally liable for civil penalties of up to ten thousand dollars (\$10,000) per violation pursuant to R.C. 1509.33(A). Each day of violation constitutes a separate offense pursuant to R.C. 1509.33(I), including each day of violation after the filing of this Complaint.

COUNT SIX
Failing to maintain a monitoring and inspection procedure in violation of
Ohio Adm.Code 1501:9-4-06(F)

101. R.C. 1509.03(A) states that “[n]o person shall violate any rule of the [C]hief adopted under this chapter.”

102. Ohio Adm.Code 1501:9-4-06(F) requires that oil and gas waste facilities have a monitoring and inspection procedure in place for which an employee shall be “present onsite during all times of offloading, loading, treating, processing, or recycling of other waste substances.”

103. Ohio Adm.Code 1501:9-4-06(F)(1)(a) requires development and implementation of “an inspection procedure and schedule for all equipment containment systems, pipelines, and other appurtenances at the oil and gas facility.”

104. Ohio Adm.Code 1501:9-4-06(F)(1)(b) states the “inspection procedure is to ensure all equipment and other appurtenances associated with the oil and gas waste facility are maintained in a safe and functional manner.”

105. Following the Division’s inspection of March 15, 2024, Defendants that same day terminated most, if not the entire, AMS staff except for its radiation safety officer.

106. AMS’ radiation safety officer resigned on March 21, 2024.

107. To date, AMS’ staff has not been replaced.

108. Since March 15, 2024, and continuing to the present, including any days occurring after the filing of this Complaint, Defendants have not implemented an inspection procedure and schedule for all equipment containment systems, pipelines, and other appurtenances at the oil and gas facility.

109. Since March 15, 2024, and continuing to the present, including any days occurring after the filing of this Complaint, Defendants have not implemented the inspection procedure to ensure maintenance of equipment and other appurtenances in a safe and functional manner.

110. The acts and omissions described in this count constitute violations of R.C. 1509.03(A) and Ohio Adm.Code 1501:9-4-06(F), for which Defendants are (1) jointly and severally liable and subject to injunctive relief pursuant to R.C. 1509.04(G) and (2) jointly and severally liable for civil penalties of up to ten thousand dollars (\$10,000) per violation pursuant to R.C. 1509.33(A). Each day of violation constitutes a separate offense pursuant to R.C. 1509.33(I), including each day of violation after the filing of this Complaint.

COUNT SEVEN

Violating terms and conditions of the Permit in violation of R.C. 1509.03(D)

111. R.C. 1509.03(D) provides, in part, that “[n]o person shall violate a term or condition of a permit or registration certificate issued under this chapter.”

112. Beginning on or before February 7, 2024, and continuing to the present, including any days occurring after the filing of this Complaint, Defendants used three unpermitted roll-off containers and an unpermitted green frac tank to store waste substances.

113. The roll-off containers and green frac tank are not approved for storage of waste substances under the Permit.

114. Under the Permit, AMS is authorized to store waste in the gondola railcars only on a temporary basis, no longer than 72 hours.

115. Beginning on or before February 7, 2024, and continuing to the present, including any days occurring after the filing of this Complaint, Defendants have stored waste in gondola railcars at the Facility for more than 72 hours.

116. To date, Defendants have not submitted a request for an amendment to the Permit that would allow storage of waste in the roll-off containers and green frac tank, nor have Defendants submitted a request for an amendment to the Permit that would allow storage of waste in gondola railcars at the Facility for more than 72 hours.

117. The acts and omissions described in this count constitute violations of R.C. 1509.03(D), for which Defendants are jointly and severally liable and subject to injunctive relief pursuant to R.C. 1509.04(G) and jointly and severally liable for civil penalties of up to ten thousand dollars (\$10,000) per violation pursuant to R.C. 1509.33(A). Each day of violation constitutes a separate offense pursuant to R.C. 1509.33(I), including each day of violation after the filing of this Complaint.

118. Additionally, pursuant to R.C. 1509.33(G), Defendants are jointly and severally liable for any damage or injury caused by the violations of the Permit and for the actual cost of rectifying the violations and conditions caused by the violations.

COUNT EIGHT

Failure to operate Facility in a manner that safely supports the proposed operations in violation of Ohio Adm.Code 1501:9-4-04(A)

119. R.C. 1509.03(A) states that “[n]o person shall violate any rule of the [C]hief adopted under this chapter.”

120. R.C. 1509.03(D) provides, in part, that “[n]o person shall violate a term or condition of a permit or registration certificate issued under this chapter.”

121. Ohio Adm.Code 1501:9-4-04(A) provides that “[a]n oil and gas waste facility shall be designed, constructed, and operated in a manner that safely supports the proposed operations occurring at the oil and gas waste facility and in a manner that protects public health and safety and prevents damage to the environment.”

122. Beginning on or before February 7, 2024, and continuing to the present, including any days occurring after the filing of this Complaint and as alleged in Counts One through Seven above, Defendants have failed to operate the Facility in a manner that safely supports the Facility's operations.

123. Defendant's failure to operate the Facility in a manner that safely supports the Facility's operations as proposed by AMS in its Permit application is a violation of AMS' Permit.

124. The acts and omissions described in this count constitute violations of R.C. 1509.03(A) and 1509.03(D) and Ohio Adm.Code 1501:9-4-04(A), for which Defendants are jointly and severally liable and subject to injunctive relief pursuant to R.C. 1509.04(G) and jointly and severally liable for civil penalties of up to ten thousand dollars (\$10,000) per violation pursuant to R.C. 1509.33(A). Each day of violation constitutes a separate offense pursuant to R.C. 1509.33(I), including each day of violation after the filing of this Complaint.

125. Additionally, pursuant to R.C. 1509.33(G), Defendants are jointly and severally liable for any damage or injury caused by the violations of the Permit and for the actual cost of rectifying the violations and conditions caused by the violations.

COUNT NINE
Failure to submit additional financial assurance in violation of
Chief's Orders 2024-78 and 2024-100

126. R.C. 1509.03(D) provides that "[t]he [C]hief may issue orders to enforce this chapter, rules adopted thereunder, and terms or conditions of permits issued thereunder. * * * No person shall violate any order of the [C]hief issued under this chapter."

127. Chief's Orders 2024-78 and 2024-100 both required AMS to, within 14 days after receipt of each order, "provide financial assurance in accordance with Ohio Admin. Code

1501:9-4-02(G)(1) for the storage capacity of the railcars and additional waste volumes being stored at the Facility exceeding the volume provided for the Permit.”

128. To date, Defendants have failed to submit the financial assurance required by Chief’s Orders 2024-78 and 2024-100.

129. The acts and omissions described in this count constitute violations of R.C. 1509.03(D), for which Defendants are jointly and severally liable and subject to injunctive relief pursuant to R.C. 1509.04(G) and jointly and severally liable for civil penalties of up to ten thousand dollars (\$10,000) per violation pursuant to R.C. 1509.33(A). Each day of violation constitutes a separate offense pursuant to R.C. 1509.33(I), including each day of violation after the filing of this Complaint.

PRAYER FOR RELIEF

Therefore, Plaintiff, the State of Ohio, respectfully requests that this Court:

- A. Preliminarily and permanently enjoin Defendants to comply with R.C. Chapter 1509 and the rules adopted thereunder;
- B. For Count One, preliminarily and permanently enjoin Defendants from exceeding its primary containment storage capacity;
- C. For Count Two, preliminarily and permanently enjoin Defendants from using secondary containment as primary containment;
- D. For Count Three, preliminarily and permanently enjoin Defendants from using the three roll-off containers and a green frac tank to store waste substances without obtaining an amendment to the Permit, and from using the gondola railcars to store waste substances for more than 72 hours without first obtaining an amendment to the Permit;

E. For Count Four, preliminarily and permanently enjoin Defendants to store all of its solid waste within both primary and secondary containment;

F. For Count Five, preliminarily and permanently enjoin Defendants to capture and lawfully manage or dispose of all liquid waste on the Facility floor, and liquid waste that is otherwise outside of primary and secondary containment;

G. For Count Six, preliminarily and permanently enjoin Defendants to have a monitoring and inspection procedure in place and have a sufficient number of qualified employees present onsite during all times of offloading, loading, treating, processing, or recycling of other waste substances;

H. For Count Seven, preliminarily and permanently enjoin Defendants to comply with all the terms and conditions of the Permit;

I. For Count Eight, preliminarily and permanently enjoin Defendants to operate in a manner that safely supports the proposed operations occurring at the Facility;

J. For Counts Seven and Eight, order Defendants to pay the actual cost of rectifying the violations and conditions caused by the violations, including all costs incurred by the State of Ohio to bring the Facility into compliance with the terms and conditions of the Permit;

K. For Count Nine, preliminarily and permanently enjoin Defendants to submit additional financial assurance, pursuant to Chief's Orders 2024-78 and 2024-100;

L. For Counts One through Nine, order Defendants to pay civil penalties in an amount of up to ten thousand dollars (\$10,000) for each day of each violation, including those that occur after filing this First Amended Complaint;

M. Order Defendants to pay all costs and fees for this action, including extraordinary enforcement costs incurred by the State of Ohio and reasonable attorney fees by the Office of the Ohio Attorney General;

N. Retain jurisdiction of this suit for the purpose of making any order or decree that this Court may deem necessary at any time to carry out its judgment; and

O. Award such relief as this Court deems proper and just.

Respectfully submitted,

DAVE YOST
OHIO ATTORNEY GENERAL



DOUGLAS CURRAN (0065750)

Trial Attorney

FAHIMEH KENNEDY (0102889)

JOHN K. MCMANUS (0037140)

Assistant Attorneys General

Environmental Enforcement Section

30 E. Broad Street, 25th Floor

Columbus, Ohio 43215

Phone: 614-466-2766 / Fax: 614-644-1926

Douglas.Curran@OhioAGO.gov

Fahimeh.Kennedy@OhioAGO.gov

Jack.McManus@OhioAGO.gov

Counsel for Plaintiff, the State of Ohio

EXHIBIT LIST

(for State of Ohio's First Amended Complaint)

Exhibit 1 – Permit, including pertinent parts of AMS' permit application

Exhibit 2 – Chief's Order No. 2024-18, dated March 19, 2024 [exhibits omitted]

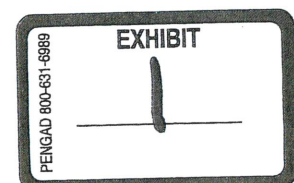
Exhibit 3 – Chief's Order No. 2024-100, dated April 17, 2024



OHIO DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL AND GAS RESOURCES MANAGEMENT
PERMIT TO CONSTRUCT AN OIL AND GAS WASTE FACILITY



FACILITY NAME: AMS Martins Ferry Facility		WF ID #: BELM-05	PERMIT #: WF-2022-05
OWNER NAME: Austin Master Services, LLC		OWNER PHONE: (740) 609-3800	OWNER #: 35014
OWNER ADDRESS: 801 North First Street, Martins Ferry, OH 43935			
PURSUANT TO OHIO REVISED CODE 1509.22 AND CHAPTER 1501:9-4 OF THE OHIO ADMINISTRATIVE CODE, AUSTIN MASTER SERVICES, LLC IS HEREBY GRANTED AUTHORIZATION TO CONSTRUCT THE AMS MARTINS FERRY FACILITY LOCATED AT THE ADDRESS LISTED IN THIS PERMIT. PURPOSE OF THE FACILITY IS TO STORE, TREAT, AND PROCESS BRINE, DRILL CUTTINGS, USED DRILLING MUDS, USED PROPPANT, USED FILTER MEDIA, GENERATED SOLIDS, FLOWBACK OR RECYLCED WATER, AND ALL OTHER RCRA EXEMPT OIL AND GAS EXPLORATION AND PRODUCTION WASTE SUBSTANCES.			
DATE EFFECTIVE: 7/12/2022		DATE CERTIFICATION DOCUMENTS DUE TO OBTAIN LETTER OF COMMENCEMENT: 7/12/2024	
FACILITY LOCATION INFORMATION			
COUNTY: Belmont		TOWNSHIP: Martins Ferry	
FACILITY ADDRESS: 801 North First Street, Martins Ferry, OH 43935			
CENTERLINE OF ACCESS ROAD AT PUBLIC RIGHT-OF-WAY: LATITUDE: 40.103039 LONGITUDE: -80.710523			
FACILITY CONTACT INFORMATION			
NAME: Joseph Bement		PHONE: (740) 609-3800	EMAIL ADDRESS: joebement@austinmasterservices.com
PERMIT CONDITIONS			
1) PERMITTEE SHALL COMPLY WITH THIS PERMIT, OHIO REVISED CODE CHAPTER 1509, OHIO ADMINISTRATIVE CODE 1501:9-4, AND ANY OTHER APPLICABLE LAWS.			
 <hr style="width: 30%; margin: auto;"/>			
ERIC VENDEL, Chief Division of Oil and Gas Resources Management			





OHIO DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL AND GAS RESOURCES MANAGEMENT



**LETTER OF COMMENCEMENT
TO OPERATE AN OIL AND GAS WASTE FACILITY**

FACILITY NAME: AMS Martins Ferry Facility		WF ID #: BELM-05	DATE EFFECTIVE: 7/12/22
		PERMIT #: WF-2022-05	
OWNER NAME: Austin Master Services, LLC		OWNER PHONE: (740) 609-3800	OWNER #: 35014
OWNER ADDRESS: 801 North First Street, Martins Ferry, OH 43935			
PURSUANT TO CHAPTER 1501:9-4 OF THE ADMINISTRATIVE CODE, AUSTIN MASTER SERVICES, LLC IS HEREBY AUTHORIZED TO COMMENCE OPERATIONS AT THE AMS MARTINS FERRY FACILITY. THE AMS MARTINS FERRY FACILITY IS AUTHORIZED TO STORE, TREAT, AND PROCESS BRINE, DRILL CUTTINGS, USED DRILLING MUDS, USED PROPPANT, USED FILTER MEDIA, GENERATED SOLIDS, FLOWBACK OR RECYCLED WATER, AND ALL OTHER RCRA EXEMPT OIL AND GAS EXPLORATION AND PRODUCTION WASTE SUBSTANCES.			
FACILITY LOCATION INFORMATION			
COUNTY: Belmont		TOWNSHIP: Martins Ferry	
FACILITY ADDRESS: 801 North First Street, Martins Ferry, OH 43935			
CENTERLINE OF ACCESS ROAD AT PUBLIC RIGHT-OF-WAY: LATITUDE: 40.103039 LONGITUDE: -80.710523			
FACILITY CONTACT INFORMATION			
NAME: Joseph Bement		PHONE: (740) 609-3800	EMAIL ADDRESS: joebement@austinmasterservices.com
SPECIAL CONDITIONS			
1) PERMITTEE SHALL CONDUCT ALL OPERATIONS IN COMPLIANCE WITH THE PERMIT, OHIO REVISED CODE CHAPTER 1509, OHIO ADMINISTRATIVE CODE 1501:9-4, AND ANY OTHER APPLICABLE LAWS.			
			
ERIC VENDEL, Chief Division of Oil and Gas Resources Management			



OIL AND GAS WASTE FACILITY PERMIT APPLICATION

1. APPLICANT INFORMATION

^{1a} Applicant Name: Austin Master Services ^{1b} Date: 2/16/22

^{1c} Applicant Address: 801 North First Street
Martins Ferry Ohio 43935

^{1d} Contact Name & Title: Joseph Bement President

^{1e} Email Address: joebement@austinmasterservices.com

^{1f} Telephone Number: 740-609-3800

2. IF A BUSINESS ENTITY, LIST THE STATUTORY AGENT AND INCLUDE A CERTIFIED COPY OF APPOINTMENT

^{2a} Name: BUSINESS FILINGS INCORPORATED

^{2b} Address: 4400 EASTON COMMONS WAY SUITE 125
COLUMBUS OH 43219

3. WASTE FACILITY INFORMATION

^{3a} Facility Name: Martins Ferry Facility

^{3b} County: Belmont ^{3c} Township: Martins Ferry

^{3d} Address: 801 North First Street

4. TYPE OF FACILITY

Long-Term Waste Facility Short-Term Waste Facility

5. PURPOSE OF FACILITY (Check all that apply)

Storage Recycling Treatment Processing

6. TYPE OF MATERIAL (Check all that apply)

Brine Drill Cuttings Used Drilling Mud Used Proppant Used Filter Media
 Generated Solids Flowback or Recycled Water Other All RCRA Exempt Exploration and Production Wastes

7. CENTER LINE OF ACCESS ROAD AT PUBLIC RIGHT-OF-WAY (decimal degrees six significant figures)

Latitude: 40.103039 Longitude: -80.710523

8. INCIDENT RESPONSE INFORMATION

^{8a} 911 Emergency Address of Waste Facility: 801 North First Street
Martins Ferry Ohio 43935

^{8b} Name: Troy Mazur ^{8c} 24-hr Emergency Telephone Number: 330-314-7786

^{8d} Email Address: tmazur@austinmasterservices.com

9. PROFESSIONAL ENGINEER OF RECORD

^{9a} Name: Patrick J. Sullivan, Jr ^{9b} Company Name: Civil & Environmental Consultants,

^{9c} Ohio Professional Engineering License Number: 57153

^{9d} Address 700 Cherrington Parkway Moon Township PA 15108

^{9e} Telephone number: 412-249-1574 ^{9f} Email: psullivan@cecinc.com

10. I, the undersigned, being first duly sworn, depose and state under penalties of law, that I am authorized to make this application, that this application was prepared by me or under my supervision and direction, and that the facts stated herein are true, correct, and complete, to the best of my knowledge.

^{10a} Signature of Applicant: *Joseph Bement*

^{10b} Printed Name: Joseph Bement ^{10c} Title: President

^{10d} Sworn to and subscribed before me this 17 day of June, 2022

Commonwealth of Pennsylvania - Notary Seal
 Jeanne Manfredi, Notary Public
 Washington County
 My commission expires September 24, 2025
 Commission number 1275157
 Member, Pennsylvania Association of Notaries

Jeanne Manfredi
 (Notary Public)
 Jeanne Manfredi
 September 24, 2025
 (Date Commission Expires)

201421901552

DATE:	DOCUMENT ID	DESCRIPTION	FILING	EXPED	PENALTY	CERT	COPY
08/08/2014	201421901552	REG. OF FOR. PROFIT LIM. LIAB. CO. (LFP)	125.00	100.00	.00	.00	.00

Receipt

This is not a bill. Please do not remit payment.

BUSINESS FILINGS INCORPORATED
ATTN: PROCESSING DEPARTMENT
8020 EXCELSIOR DR. STE 200
MADISON, OH 53717

**STATE OF OHIO
CERTIFICATE**

Ohio Secretary of State, Jon Husted

2316404

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

AUSTIN MASTER SERVICES, LLC

and, that said business records show the filing and recording of:

Document(s)
REG. OF FOR. PROFIT LIM. LIAB. CO.

Document No(s):
201421901552

Effective Date: 08/07/2014



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus, Ohio
this 8th day of August, A.D. 2014.

A handwritten signature in cursive script that reads "Jon Husted".

Ohio Secretary of State

Austin Master Services Martins Ferry Facility Processing Description

1. The Austin Master Services (AMS) Martins Ferry Facility (MFF) accepts various waste streams from oil and gas exploration and production operations. These waste streams include, but are not limited to; produced sand, produced water, tank bottoms, filter socks, and contaminated debris.
2. Prior to accepting waste, clients must complete a “Waste Profile” which is reviewed by AMS Management to determine if AMS can legally process the waste and accommodate the volume.
3. All inbound trucks cross over the scale where a heavy weight is recorded and shipping paperwork is checked. After paperwork is verified the truck proceeds to the lot North of the facility where an exposure rate measurement is taken on the exterior of the waste container.
4. After the exposure rate measurement is taken the truck proceeds to one of five locations based on the exposure rate measurement and the waste type.
 - a. Suspension/Liquids
 - i. Exposure rate less than 20 proceeds to the “Cold” portion of the facility where the liquid phase of the waste is removed.
 - ii. Exposure rate greater than 20 proceeds to the “Hot” portion of the facility where the liquid phase of the waste is removed.
 1. In the event the liquid phase is removed and there is a solid tank bottom remaining, the waste container proceeds to “Bin 7” where the solids are removed.
 - a. Based off the exposure rate measurement the solids are removed from bin 7 and moved to corresponding solid waste bins.
 - b. Solids
 - i. Exposure rate less than 20 proceeds to either bin 7 or bin 2 where the solids are dumped into the bins.
 - ii. Exposure rate greater than 20 proceeds to either bin 7 or bin 5 where the solids are dumped into the bins
5. The waste that is dumped into the cold and hot pits is pumped into corresponding agitator tanks where the solids are suspended.
6. Sludge from the agitator tanks is pumped through the filter press system where the solid and liquid phase are further separated.
 - a. Liquid Phase
 - i. The liquid phase is pumped through an oil water separator to separate waste oil and brine water.
 - ii. Brine Water is sent to tanks for storage until shipments are made to underground injection wells.
 - iii. Waste Oil is sent to processors for utilization
 - b. Solid Phase
 - i. The solid phase receives an exposure rate measurement and based on that result is placed into either bin 5 or bin 1.



Austin Master Services
Radiological • Remediation • Engineering

7. Waste in bin 5 is conditioned to under 40% moisture and then shipped to Waste Control Specialists in Andrews, Texas.
8. Waste in bins 1 and 2 are mixed to suitable levels where the waste materials can be shipped to Pennsylvania landfill.

Primary Containment Calculations

Primary Containment Calculations for Bins 1,2,3

Assumptions:

Bins 1,2,3 are equal in dimension

Height of bin is average of high and low point

Bins 1,2, and 3 are used to contain solid waste being mixed for landfill disposal

Width Per Bin (Feet)	
Interior width (in)	936
Interior walls (in)	24
Usable interior width (in)	912
Convert to feet	76
Feet per bin (76/3)	25.3

Depth Per Bin (Feet)	
total depth (in)	360
Wall at back of bin (in)	18
Usable interior depth (in)	342
Convert to feet	28.5

Height of Bin (Feet)	
Height of bin (low point)(ft)	9.3
Height of Bin (high point)(ft)	8.5
Average (ft)	8.9

Volume of Bins	
Width (ft)	25.3
Depth (ft)	28.5
Height (ft)	8.9
Volume per bin (Cubic Feet)	6437.8
Volume Per Bin (Cubic Yard)	238.4
Total Volume (Cubic Feet)	19313.5
Total Volume (Cubic Yard)	715.3

Primary Containment Calculations for Bin 4

Assumptions:

Height of bin is average of high and low point

Bin 4 is used to collect press drops

Width Per Bin (Feet)	
Interior width (in)	216
Convert to feet	18

Depth Per Bin (Feet)	
total depth (in)	120
Wall at back of bin (in)	12
Usable interior depth (in)	108
Convert to feet	9

Height of Bin (Feet)	
Height of bin (low point)(ft)	1.2
Height of Bin (high point)(ft)	4.1
Average (ft)	2.6

Volume of Bins	
Width (ft)	18.0
Depth (ft)	9
Height (ft)	2.6
Volume (Cubic Feet)	428.6
Volume (Cubic Yard)	15.9

Primary Containment Calculations for Bins 5,6

Assumptions:

Bins 5,6 are equal in dimension

Height of bin is average of high and low point

Bins 5 and 6 are utilized to store material for LLRW

Width Per Bin (Feet)	
Interior width (in)	936
Interior walls (in)	12
Usable interior width (in)	924
Convert to feet	77
Feet per bin (77/2)	38.5

Depth Per Bin (Feet)	
total depth (in)	360
Wall at back of bin (in)	18
Usable interior depth (in)	342
Convert to feet	28.5

Height of Bin (Feet)	
Height of bin (low point)(ft)	9.3
Height of Bin (high point)(ft)	8.5
Average (ft)	8.9

Volume of Bins	
Width (ft)	38.5
Depth (ft)	28.5
Height (ft)	8.9
Volume per bin (Cubic Feet)	9783.8
Volume Per Bin (Cubic Yard)	362.4
Total Volume (Cubic Feet)	19567.6
Total Volume (Cubic Yard)	724.7

Primary Containment Calculations for Bin 7

Assumptions:

Height of bin is height of wall, 3'

Bin 7 is used to remove solid waste from containers.

Width Per Bin (Feet)	
Interior width (in)	240
Convert to feet	20

Depth Per Bin (Feet)	
total depth (in)	336
Wall at back of bin (in)	12
Usable interior depth (in)	324
Convert to feet	27

Height of Bin (Feet)	3
----------------------	---

Volume of Bin	
Width (ft)	20
Depth (ft)	27
Height (ft)	3
Volume (Cubic Feet)	1620
Volume (Cubic Yard)	60

Primary Containment Calculations for Half Round	
Assumptions:	
Half Round Shape is regular and not angled.	
This will over estimate waste volume	
Half Rounds are used to store liquid or suspension wastes.	
Length of Half Round (feet)	30
Width of Half Round (feet)	8.5
Height of Half Round (feet)	5
Total Volume of Half Round (cubic feet)	1275
Total Volume of Half Round (Bbl)	227.1

Assumptions:

None, volume taken from drawings

Upright tanks are used to store liquid wastes.

Volume of Upright (Bbl) 400

Assumptions:

None, volume taken from drawings

Agitator tanks are used to store liquid or suspension wastes.

Volume of Agitator (Bbl)	400
--------------------------	-----

Mechanical Processes Utilized for Waste Processing at AMS MFF

Waste Unloading

Container Type	Methodology for unloading	Locations
Roll off box	Gravity, mechanical extraction for that which gravity does not remove	Cold Half Round, Hot Half Round, Bins 1,2,5,6,7
Vacuum Truck	On board pump system for the truck, mechanical extraction for any tank bottoms that do not get pumped off and which the customer requests to be removed	Hot Half Round, Agitator System
Drums	Drums are removed from conveyances by hand, life gate, or forklift. Drums are emptied utilizing a forklift mounted drum tipper that can take drums to the appropriate locations and utilize gravity to empty.	Cold Half Round, Hot Half Round, Bins 1,2,5,6

Waste Processing

Process Name	Description	Location
Filter Press	Utilizing different pumping systems suspended waste from the agitators is pumped into the plate and frame filter presses. The liquid phases of the waste leave through the effluent holes and the solid phase builds a cake. After cycle times determined by press operation leads are finished the cake is "dropped" from the filter press and new cycles started.	Agitator/Filter Press Containment
Down Blending	AMS blends waste of varying radioactivity content to create a concentration that is	Bins 1,2,3

	acceptable for local landfill disposal.	
Shipment to landfill	After material is sufficiently blended material is loaded into trucks for transportation to local landfill.	Bin 3, Bay 4
Shipment to Low Level Radioactive Waste Landfill (LLRW)	After material is sufficiently solidified it is loaded into available gondola railcars for transport to LLRW.	Bins 5,6 and Rail line
Oil Water Separation	The liquid phases coming from the filter press are further divided into water for injection at Class II UIC or disposal at location who takes oil.	Agitator Containment
Shipment to Class II UIC	Water is loaded into transport trucks of varying sizes for disposal at Class II UIC	Water Load Out Area
Shipment to oil disposal location	Waste Oil from the filter pressed materials is loaded for disposal.	Filter Press Containment
Truck Wash Out	At the appropriate station trucks are staged and cleaned out utilizing either processed water from the filter press system or city water. All exterior surfaces of the truck are cleaned utilizing city water.	Hot Half Round/Confined Space Entry Station

Chemical Processes Utilized for Waste Processing at AMS MFF

Process Name	Description	Location
Stabilization for LLRW	Waste materials for disposal at LLRW are stabilized utilizing quick lime to meet moisture content criteria	Bins 5,6
Reserved	Reserved for potential treatment methodologies utilized in the filter press system	Agitators, Filter presses

Chemical Reagents utilized:

Chemical Reagent Name	Purpose	Storage Location
Blended Quick Lime	Stabilization of waste materials utilizing chemical binding of liquids.	Lime Bin located in building 255.

Discharge Prevention Measures

Containment	Primary Containment Measures	Secondary Containment Measures
Agitator Tank	Monitored By Camera, Inspection at beginning/end of shift/During pumping	Monitored By Camera, Inspection at beginning/end of shift
Processed Water Upright Tank	Monitored By Camera, Inspection at beginning/end of shift	
Half Rounds	Monitored By Camera, Inspection at beginning/end of shift	Monitored By Camera, Inspection at beginning/end of shift
Bins	Monitored By Camera, Inspection at beginning/end of shift	Monitored By Camera, Inspection at beginning/end of shift

Leak Detection Methods for Pipelines

Pipelines installed at MFF are all above ground and suspended in the air. Leak detection is accomplished utilizing visual inspection of the pipes and associated containment under the pipes.

Loading, Unloading, and Transferring Procedures

Loading Procedures

Brine Loading

During operation of the filter press regular checks of the Processed Water tanks are made. Based on measurements taken at these times brine trucks are coordinated for disposal at Class II UIC. Upon arrival of the transport truck at MFF the truck is weighed in and communicates with on site personnel regarding entering the facility and loading. After permission to enter is granted the truck maneuvers to the water load out area near the processed water tanks. At this time the truck is met by an AMS employee, typically the filter press operator. After the truck is appropriately staged, hosing is connected from the processed water tanks to the transport truck this includes a clear sight tube. The truck begins loading brine water by vacuum. While water is being loaded the filter press operator will utilize the clear sight tube to assess water quality being loaded. After the truck operator determines he is full the valve at the processed water tanks is closed, and the pressure relief valve opened. The line is then vacuumed clean of remaining liquid and the truck valve closed. The vacuum is turned off, hoses removed, and appropriate caps placed on the valves. The truck then proceeds to the scale for heavy weight. After the truck finishes scaling, a manifest is provided and signed. The truck then proceeds to the disposal location.

Oil Loading

During operation of the filter press regular checks of the Waste Oil tank is made. Based on measurements taken at these times brine trucks are coordinated for disposal at the designated facility. Upon arrival of the transport truck at MFF the truck is weighed in and communicates with on site personnel regarding entering the facility and loading. After permission to enter is granted the truck maneuvers to the waste oil tank area in the filter press containment. At this time the truck is met by an AMS employee, typically the filter press operator. After the truck is appropriately staged, hosing is connected from the processed water tanks to the transport truck. The truck begins loading waste oil by vacuum. After the truck operator determines he is full the valve at the waste oil tank is closed, and the pressure relief valve opened. The line is then vacuumed clean of remaining waste oil and the truck valve closed. The vacuum is turned off, hoses removed, and appropriate caps placed on the valves. The truck then proceeds to the scale for heavy weight. After the truck finishes scaling, a manifest is provided and signed. The truck then proceeds to the disposal location.

Local Landfill Truck Loading

On a daily basis the MFF Operations Manager will assess the quantity of waste materials in bins 1,2 and 3. Based on these levels and anticipated incoming waste volumes the Operations Manager will schedule trucking for the following day. Note that landfills AMS utilize are only open Monday through Friday typically. When scheduled trucks arrive they are weighed in empty and communicate with on site personnel regarding entering the loading bay. Once permission is granted the truck backs into bay 4, the loading bay, and begins loading their truck. A light operated by the driver indicates that the bed of the truck is occupied. After the truck is lined the driver exits and turns off the light indicating that the truck is ready to be loaded. The operator

then begins loading the truck, utilizing a front end loader, with material that is ready for landfill shipment. During this the operator communicates with the truck driver using in-cab CB radio to make adjustments to how the truck is loaded, or determine if sufficient material is loaded into the truck. After the truck is finished loading they pull into the North "truck receiving lot" where an exposure rate measurement is performed on the exterior of the truck. If the measurement yields results outside of internal specifications the truck is moved into the building and dumps its load. The process is then repeated until exposure rates meet specified results. After the truck is loaded and meets specified exposure rate measurements the truck proceeds to the scale where a heavy weight is taken. After the truck finishes scaling a manifest is provided and signed. The truck then proceeds to the disposal location.

Railcar Loading for LLRW

Upon arrival of gondola railcars at the facility an assessment of on site materials is made to determine railcar loading schedule. Material is stabilized to sufficient moisture content to meet disposal requirements. The gondola railcar is lined utilizing a double lining system. After the railcar is lined, and waste is sufficiently stabilized loading commences. Materials destined for LLRW are loaded into the gondola utilizing a front end loader. After sufficient material has been loaded into the gondola the operator utilizes an excavator to "smooth" the load into a flat surface. Once the surface is flattened samples are collected to verify moisture content and the liner is closed utilizing the designated fall protection system. After the liner is closed a radiation survey is performed of the railcar including exposure rate measurements and removable contamination. Upon completion of the survey the data is provided to AMS' certified shipper who makes determinations on the DOT status of the railcar and fills out shipping paperwork in accordance with that determination. After DOT determination is made communication is made to the on-site personnel who performs the labeling and placarding of the railcar regarding its DOT status. The paperwork is then provided to the rail provider who schedules the removal of the railcar.

Unloading Procedures

General

When trucks arrive they are weighed in and receive an exposure rate measurement. All processing is based on the initial exposure rate measurement taken at this time. The employee performing this measurement will announce on the radio that there is Truck Type here with Exposure Rate to inform operations employees where the truck will be unloaded. Typically all roll off trucks that enter the facility are opened initially at the half rounds to capture any water that may be present. Based on generator familiarity and project specifications some roll off trucks may be initially dumped elsewhere if AMS personnel are confident that no liquid waste is present.

Half Round Roll Off Box Unloading

Roll off trucks enter the facility and maneuver to the appropriate half round based on the measured exposure rate. An AMS employee meets them at this point and helps to guide them to the appropriate location. After the truck is staged near the half round the employee checks

the chains on the truck to ensure intactness. The chains on the back of the container are removed and the AMS employee instructs the driver to back the container over the half round. Once the container is over the half round the side chain is loosened to allow liquid waste to exit the container. After this chain is loosened the AMS employee instructs the driver to raise his rails so that liquid can efficiently drain out. Once liquid drainage has slowed to a trickle the side binder is resecured to limit subsequent liquid drainage during transfer to subsequent dump location.

Bin 7 Roll Off Unloading

After the truck has had the liquid drained the container will move to bin 7. At bin 7 the roll off door is fully opened and chained open. The AMS employee will then instruct the truck driver to fully raise the trucks rails to try and dump any solids.. If the solids stay in the container at this point AMS utilizes mechanical extraction to remove solids from the container. Once the container is empty of its solid content the truck proceeds to the wash out station.

Hot Half Round/Agitator Vacuum Truck Unloading

Vacuum trucks enter the facility and maneuver to the appropriate off loading location based on the measured exposure rate. The truck is connected to a manifold at that location by hose. After the truck and the primary containment are connected the truck's pump system is turned on manifold valve opened and contents evacuated into the connected primary containment. The AMS employee monitors the connected primary containment and associated hose during discharge. Once observations indicate the truck is empty the valve at the manifold is closed and the truck's pump is turned off. Hoses are disconnected and appropriate caps placed on the truck's valves.

Transfer Procedures

Transfer from Hot Half Round to Agitators

When waste is dumped into the hot half round the associated pump and grinder system will be connected to the agitator manifold. The appropriate valves will then be closed/opened to pump the material into the designated agitator. An AMS employee will then turn on the pump and monitor the flow of waste into the agitator tank. After the material is pumped over the pump will be turned off.

Transfer from Cold Half Round to Agitators

When waste is dumped into the cold half round the AMS vacuum truck will be utilized to transfer materials to the agitators. After a box is dumped the vacuum truck will be turned on, connected to the hose utilized to remove material from the half round, and vacuum pump started. AMS employees will monitor the system for proper performance and check the fill gauge periodically to determine if the truck is full. After the truck is finished being loaded the employee will close the valve, cut the vacuum pump off, and check the hose to determine if it has drained off. If not a cap will be utilized to minimize spilling of material. The truck will maneuver to the agitator load off area and utilize the steps discussed in "Hot Half Round/Agitator Vacuum Truck Unloading"

Transfer of Solid Waste Throughout the Facility

When solid waste is transferred through various locations in the facility it will be performed utilizing a front end loader. Waste will be picked up utilizing the bucket and transferred from one location to another. At this time some waste may fall off the bucket that was previously sticking. This waste will be cleaned up utilizing the blade on the bucket of the loader at regular intervals during operation.

Waste Tracking

Inbound Waste

All waste inbound to the facility is weighed in across the on site scale. For trucks the empty container is weighed again after emptying. For drums the entire heavy weight of the container is assumed to be processed. AMS crushes the actual drum and disposes of that typically so there is no light weight. All inbound shipments are tracked utilizing the AMS Waste Tracking Sheet, which tracks total tonnage, type of waste, generator, generating location, radioactivity, and other components.

Outbound Waste

Waste leaving the facility is tracked by disposal destination. These trucks are weighed in light prior to loading and after loading weighed out Waste destined for local landfill or class II injection wells are tracked utilizing the AMS Waste Tracking Sheet. The weight, disposal location and other components are tracked.

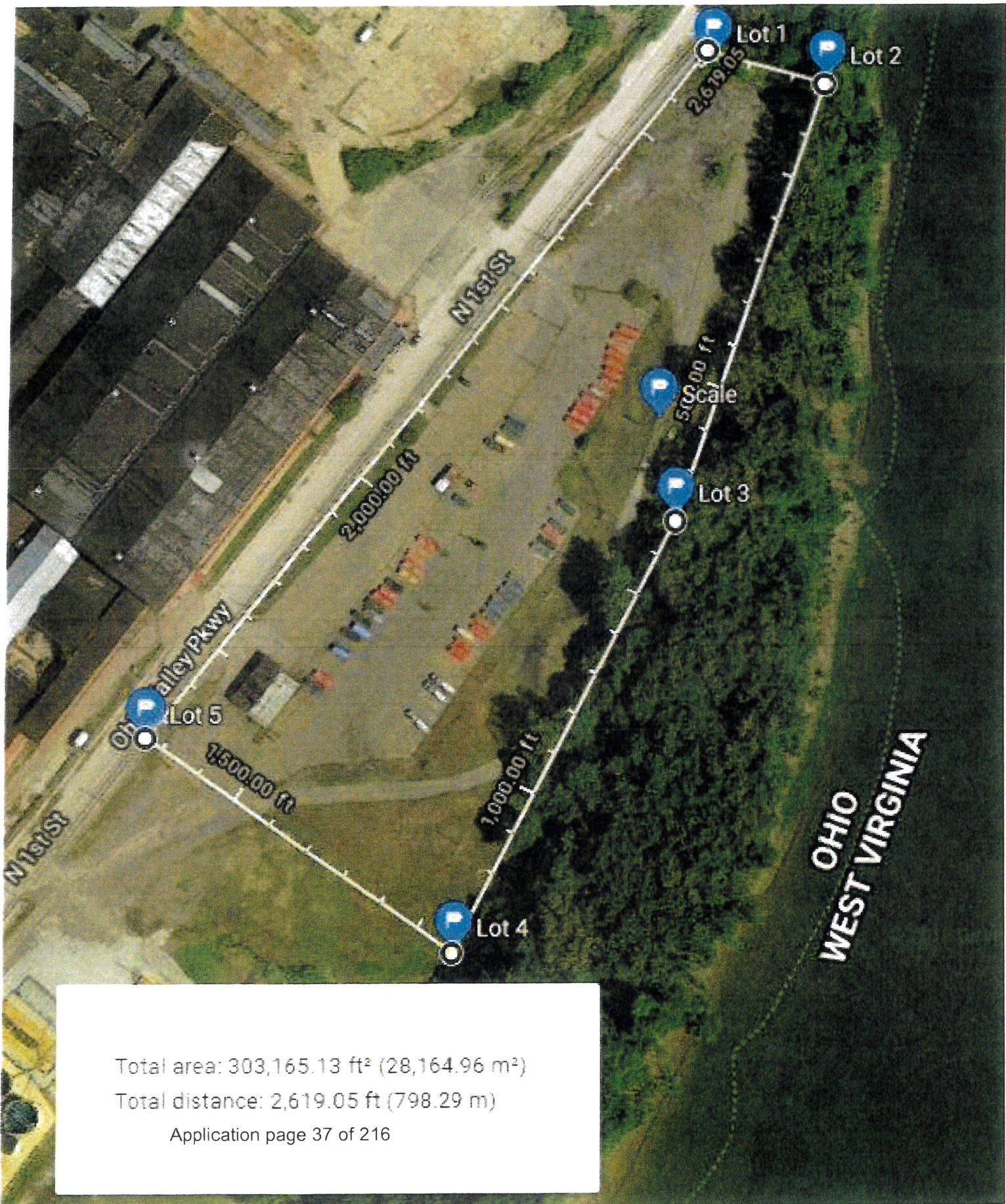
Due to the nature of shipment by rail the waste disposed of at LLRW is tracked in a separate spreadsheet, the Railcar Shipment Sheet. The weight assumed to be loaded into each railcar is 100 tons.

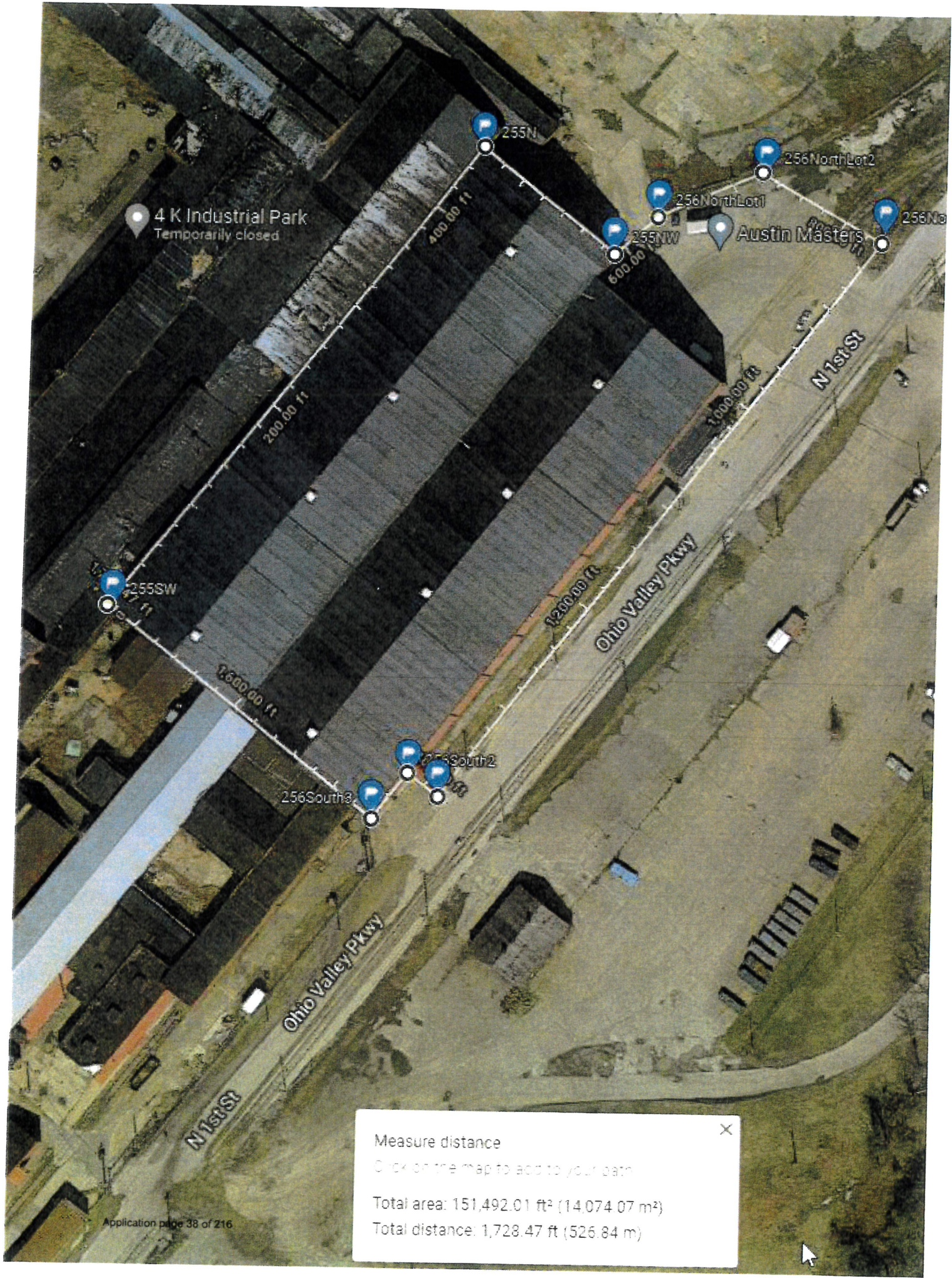
Other

Stabilization agents are also weighed in and tracked utilizing the AMS Waste Tracking Sheet. Ultimately stabilization agents end up being transported out with outbound solid waste so to maintain consistent measures tracking of the inbound agent is required.

Proposed Final Disposition of Waste Materials

Waste Type	Disposal Location
Brine	Class II Injection Well (ReHydro, Dennison Disposal, Glenn O Hawbaker, Clearwater 3, etc)
Oil	ReHydro
Radioactively Elevated Solid Waste	Waste Control Specialists Andrews, Texas or similar LLRW
Non-Radioactively Elevated Solid Waste	Republic Services' Imperial Landfill or similar Pennsylvania Landfill





4 K Industrial Park
Temporarily closed

Austin Masters

255N

256NorthLot2

256NorthLot1

255NW

256No

400.00 ft

200.00 ft

600.00 ft

1,000.00 ft

N 1st St

255SW

1,600.00 ft

1,200.00 ft

Ohio Valley Pkwy

256South2

256South3

Ohio Valley Pkwy

N 1st St

Measure distance ✕

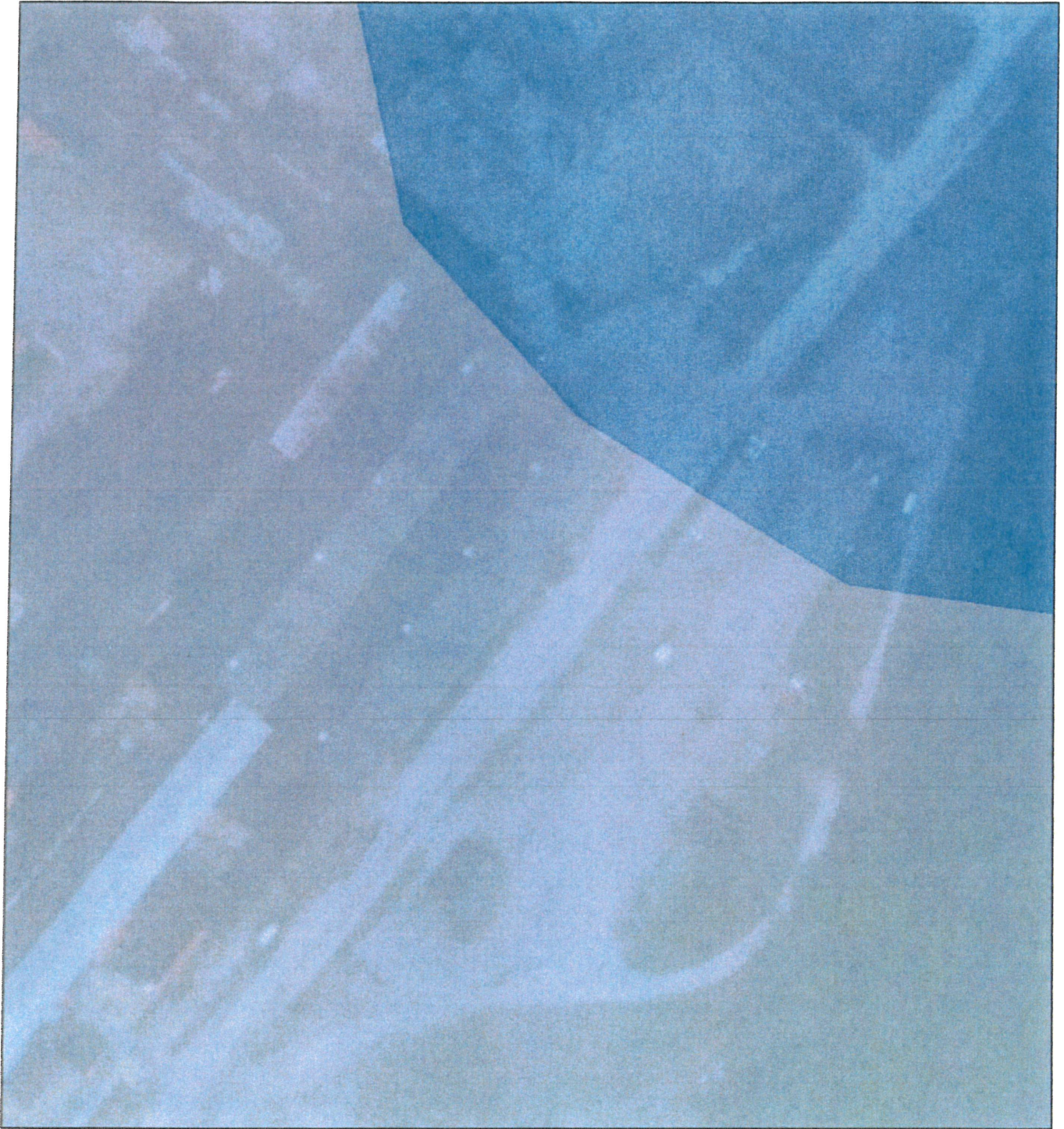
Click on the map to add to your path

Total area: 151,492.01 ft² (14,074.07 m²)



Total distance: 1,728.47 ft (526.84 m)

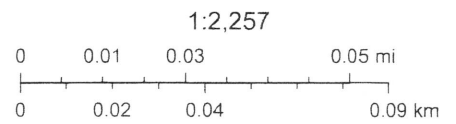
Location of Source Water Protection Area

Drinking Water Source Protection Areas



6/15/2022, 12:28:41 PM

-  Source Water Protection Area
-  Inner Management Zone



Division of Drinking and Ground Waters, Ohio EPA. Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

Location of Nearest Water Well

Location and distance of nearest water well



Imagery ©2022 Google, Imagery ©2022 Maxar Technologies, USDA/FPA/CIGER, Map data ©2022

Measure distance:
Total distance 1,141.32 ft (347.88 m)



Ohio Department of Natural Resources

MIKE DEWINE, GOVERNOR

MARY MERTZ, DIRECTOR

Eric Vendel, Chief
Division of Oil and Gas Resources Management
2045 Morse Rd, Building F
Columbus, Ohio 43229
Phone: (614) 265-6922; Fax: (614) 265-6910

ORDER BY THE CHIEF

March 19, 2024

ORDER NO. 2024-78

TO: Austin Master Services, LLC
801 North First Street
Martins Ferry, Ohio 43935

RE: AMS Martins Ferry Facility
Martins Ferry, Belmont County, Ohio

SUBJECT: Suspension of Operations

Pursuant to Ohio Revised Code Sections 1509.03(D), 1509.04(A), and 1509.22, and Ohio Administrative Code 1501:9-4, the Chief of the Division of Oil and Gas Resources Management ("Chief" or "Division") issues the following Order:

BACKGROUND:

- (1) Since January 13, 2022, Chapter 1501:9-4 of the Ohio Administrative Code governs the process to obtain a permit to store, recycle, treat, and process oil and gas waste substances, sets operational standards for permitted oil and gas waste facilities, and specifies enforcement procedures for oil and gas waste facilities.
- (2) Pursuant to Ohio Admin. Code Chapter 1501:9-4, effective July 12, 2022, the Division authorized AMS to construct the AMS Martins Ferry Facility ("Facility") in Permit No. WF-2022-05 ("Permit"), attached as Exhibit 1.
- (3) The Facility is an "oil and gas waste facility" as defined by Ohio Admin. Code 1501:9-4-01(DD), located at 801 North First Street, Martins Ferry, Belmont County, Ohio. The Facility stores, treats, and processes brine, and other waste substances associated with the exploration, development, well stimulation, production operations, or plugging of oil and gas resources.
- (4) Effective July 12, 2022, the Division authorized AMS to commence operations at the Facility in a Letter of Commencement. The Letter of Commencement is attached as Exhibit 2.



- (5) Ohio Admin. Code 1501:9-4-06(C)(1)(d) states “[P]rimary containment shall not overflow. Secondary containment shall not be used as primary containment.”
- (6) On February 7, 2024, Division staff inspected the Facility. The inspection report notes the following:

“Solid waste accumulation at the facility is exceeding the primary containment storage capacity. Facility secondary containment is being used as primary containment. On the west side of the facility, near the filter presses and filtrate water half-round, three roll-off containers and a green frac tank were being used to store waste.”

The three roll-off containers and green frac tank were not approved to use for storage of waste substances (“waste”) in the Facility’s Permit.

- (7) Ohio Admin. Code 1501:9-4-05(C)(1) requires a request for a Division-approved amendment to an oil and gas waste facility permit “prior to implementation of any revision to an oil and gas waste facility.”
- (8) As of the date of this Chief’s Order, AMS has not submitted an application for an amendment to the Permit.
- (9) On February 7, 2024, the Division issued a Notification of Violation for violations of Ohio Admin. Code 1501:9-4-05(C)(1) and Ohio Admin. Code 1501:9-06 (C)(1)(d). The Notification stated violations were to be corrected by March 15, 2024. The Notification of Violation is attached as Exhibit 3.
- (10) On March 15, 2024, Division staff conducted an inspection of the Facility. AMS did not correct the violations noted in the February 7, 2024, Notification of Violation and the Division staff found:
 - a. the amount of waste stored at the Facility exceeded the amount allowed in the Permit because it had exceeded the permitted volumes of the primary containments;
 - b. AMS increased the amount of waste being stored at the Facility since the February 7, 2024, inspection, as shown in the photos attached as Exhibit 4; and
 - c. liquid was present on the Facility floor outside of primary or secondary containment.

The Division’s March 15, 2024, inspection report is attached as Exhibit 5.

- (10) R.C. 1509.03(D) states, in pertinent part, that “[n]o person shall violate a term or condition of a permit or registration certificate issued under this chapter.”

- (11) From February 7, 2024, to at least March 15, 2024, AMS maintained gondola railcars of waste at the Facility. In its approved permit application documents, AWS explained that the railcars were to ship waste to out-of-state low-level radioactive landfills. Accordingly, these railcars were to store waste only on a temporary basis and the storage capacity of these containers was not factored into the financial assurance calculation for the Facility because their presence at the Facility was intended to be transient in nature.
- (12) The Division generally applies 72 hours as the maximum time frame for storage to be considered temporary. *See* Ohio Admin. Code 1501:9-4-01(DD)(3) (exempting from the definition of an “oil and gas waste facility” the storage of brine or other waste substances in a vehicle, vessel, or container at locations for less than seventy-two hours).
- (14) Ohio Admin. Code 1501:9-4-02 (G)(1) requires that facility owners “[e]xecute and file with the Division financial assurance conditioned on compliance with Chapter 1509 of the Revised Code, Division 1501:9 of the Administrative Code, and all rules and orders issued pursuant to either.”
- (15) As of the date of this Order, AMS has executed and filed with the Division two assigned certificates of deposit providing \$527,486.00 of financial assurance pursuant to Ohio Admin. Code 1501:9-4-02(G)(1).
- (16) Ohio Admin. Code 1501:9-4-06(K)(1) states “[T]he chief may immediately suspend operations at an oil and gas waste facility if any of the following apply:
 - (a) The oil and gas waste facility is operated in a manner different than the approved permit and any approved modifications or amendments;
 - (b) The operation of the oil and gas waste facility does not perform or is likely not to perform as designed;
 - (c) The oil and gas waste facility does not or is likely not to perform in a manner that supports safe production operations;
 - (d) The operation of the oil and gas waste facility fails or could reasonably be anticipated to fail to protect public health and safety;
 - (e) The operation of the oil and gas waste facility causes or could reasonably be anticipated to cause damage to the environment;
 - (f) The oil and gas waste facility is operated outside of the designated oil and gas waste facility boundary;
 - (g) Any violation of a term or condition of an approved permit, Chapter 1509 of the Revised Code or Division 1501:9 of the Administrative Code.; and

- (h) Operations at the class II disposal well associated with the oil and gas waste facility are suspended under rule 1501:9-3-07 of the Administrative Code or the class II disposal well associated with the oil and gas waste facility is ordered to be plugged by the chief.”

FINDINGS:

- (1) The Chief finds that AMS has allowed primary containment to overflow and is using secondary containment as primary containment in violation of Ohio Admin. Code 1501:9-4-06(C)(1)(d).
- (2) The Chief finds that AMS used three roll-off containers, a green frac tank, and the gondola railcars to store waste without obtaining an amendment to its Permit in violation of Ohio Adm. Code 1501:9-4-05(C)(1).
- (3) The Chief finds that the amount of financial assurance is not sufficient to meet the requirements of the Ohio Admin. Code 1501:9-4-02(G)(1) due to the additional amount of waste being stored on site.
- (4) The Chief finds that a suspension of operations at the Facility is lawful and reasonable under Ohio Admin. Code 1501:9-4-06(K)(1) because:
 - a. The Facility was operated in a manner different than the approved Permit; and
 - b. The Facility is in violation of its approved permit, R.C. 1509.03(D), and Ohio Admin. Code 1501:9-4.

ORDERS:

IT IS HEREBY ORDERED:

- (1) AMS shall immediately suspend its operations at the Facility and immediately cease accepting waste at the Facility.
- (2) AMS shall immediately remove all liquids from the Facility floor and secondary containment areas at the Facility.
- (3) Within 14 days after the receipt of this Chief's Order, AMS shall provide financial assurance in accordance with Ohio Admin. Code 1501:9-4-02(G)(1) for the storage capacity of the railcars and additional waste volumes being stored at the Facility exceeding the volume provided for in the Permit.

March 19, 2024

Eric Vendel

Date

Eric Vendel, Chief
Division of Oil and Gas Resources Management

Pursuant to R.C. 1509.224(B), addressee is hereby notified that this action is a preliminary order of the Chief and becomes a final order 30 days after its issuance unless the person to whom the preliminary order is directed submits to the Chief a written request for an informal hearing before the Chief within that 30-day period.

If no informal review is requested within 30 days after the issuance of this order, this order is deemed final and may be appealed pursuant to Sections 1509.36 and 1509.37 of the Ohio Revised Code. If the Order is appealed to the Ohio Oil and Gas Commission, the appeal must be in writing and must set forth the orders complained of and the grounds upon which the appeal is based. Such appeal must be filed with the Oil and Gas Commission within 30 days after the date upon which the order becomes final, and sent to the following address: Oil and Gas Commission, 2045 Morse Road, Building E-1, Office 103, Columbus, Ohio 43229.

In addition, within three days after the appeal is filed with the Oil and Gas Commission, notice of the filing of the appeal must be filed with Eric Vendel, Chief of the Division of Oil and Gas Resources Management, 2045 Morse Road, Building F, Columbus, Ohio 43229-6693.

CERTIFIED MAIL No: 9489009000276359257481

Enclosures:

- Exhibit 1
- Exhibit 2
- Exhibit 3
- Exhibit 4
- Exhibit 5

cc:

Austin Master Services, Inc.
4400 Easton Commons Way, Suite 125
Columbus, Ohio 43219

9489009000276359257498



Ohio Department of Natural Resources

MIKE DEWINE, GOVERNOR

MARY MERTZ, DIRECTOR

Eric Vendel, Chief
Division of Oil and Gas Resources Management
2045 Morse Rd, Building F
Columbus, Ohio 43229
Phone: (614) 265-6922; Fax: (614) 265-6910

ORDER BY THE CHIEF

April 17, 2024

ORDER NO. 2024-100

TO: Austin Master Services, LLC
801 North First Street
Martins Ferry, Ohio 43935

RE: AMS Martins Ferry Facility
Martins Ferry, Belmont County, Ohio

SUBJECT: Suspension of Operations

Pursuant to Ohio Revised Code Sections 1509.03(D), 1509.04(A), and 1509.22, and Ohio Administrative Code 1501:9-4, the Chief of the Division of Oil and Gas Resources Management ("Chief" or "Division") issues the following Order:

BACKGROUND:

- (1) Since January 13, 2022, Chapter 1501:9-4 of the Ohio Administrative Code has governed the process to obtain a permit to store, recycle, treat, and process oil and gas waste substances, sets operational standards for permitted oil and gas waste facilities, and specifies enforcement procedures for oil and gas waste facilities.
- (2) Pursuant to Ohio Admin. Code Chapter 1501:9-4, effective July 12, 2022, the Division authorized Austin Master Services, LLC ("AMS") to construct the AMS Martins Ferry Facility ("Facility") in Permit No. WF-2022-05 ("Permit"), attached as Exhibit 1.
- (3) The Facility is an "oil and gas waste facility" as defined by Ohio Admin. Code 1501:9-4-01(DD), located at 801 North First Street, Martins Ferry, Belmont County, Ohio. The Facility stores, treats, and processes brine, and other waste substances associated with the exploration, development, well stimulation, production operations, or plugging of oil and gas resources.
- (4) Effective July 12, 2022, the Division authorized AMS to commence operations at the Facility in a Letter of Commencement. The Letter of Commencement is attached as Exhibit 2.



- (5) Ohio Admin. Code 1501:9-4-06(C)(1)(d) states “[P]primary containment shall not overflow. Secondary containment shall not be used as primary containment.”
- (6) On February 7, 2024, Division staff inspected the Facility. The inspection report notes the following:

“Solid waste accumulation at the facility is exceeding the primary containment storage capacity. Facility secondary containment is being used as primary containment. On the west side of the facility, near the filter presses and filtrate water half-round, three roll-off containers and a green frac tank were being used to store waste.”

The three roll-off containers and green frac tank were not approved to use for storage of waste substances (“waste”) in the Facility’s Permit.

- (7) Ohio Admin. Code 1501:9-4-05(C)(1) requires a request for a Division-approved amendment to an oil and gas waste facility permit “prior to implementation of any revision to an oil and gas waste facility.”
- (8) As of the date of this Chief’s Order, AMS has not submitted an application for an amendment to the Permit for approval of the three roll-off containers and green frac tank for storage of waste substances.
- (9) On February 7, 2024, the Division issued a Notification of Violation for violations of Ohio Admin. Code 1501:9-4-05(C)(1) and Ohio Admin. Code 1501:9-06 (C)(1)(d). The Notification stated violations were to be corrected by March 15, 2024. The Notification of Violation is attached as Exhibit 3.
- (10) On March 15, 2024, Division staff conducted an inspection of the Facility. AMS had not corrected the violations noted in the February 7, 2024 Notification of Violation, and the Division staff found:
- a. the amount of waste stored at the Facility exceeded the amount allowed in the Permit because it had exceeded the permitted volumes of the primary containments;
 - b. AMS increased the amount of waste being stored at the Facility since the February 7, 2024 inspection, as shown in the photos attached as Exhibit 4; and
 - c. liquid was present on the Facility floor outside of primary or secondary containment.
- The Division’s March 15, 2024 inspection report is attached as Exhibit 5.
- (11) R.C. 1509.03(D) states, in pertinent part, that “[n]o person shall violate a term or condition of a permit or registration certificate issued under this chapter.”

- (12) From February 7, 2024, to at least March 15, 2024, AMS maintained gondola railcars of waste at the Facility. In its approved permit application documents, AMS explained that the railcars were to ship waste to out-of-state low-level radioactive landfills. Accordingly, these railcars were to store waste only on a temporary basis and the storage capacity of these containers was not factored into the financial assurance calculation for the Facility because their presence at the Facility was intended to be transient in nature.
- (13) The Division generally applies 72 hours as the maximum time frame for storage to be considered temporary. *See* Ohio Admin. Code 1501:9-4-01(DD)(3) (exempting from the definition of an “oil and gas waste facility” the storage of brine or other waste substances in a vehicle, vessel, or container at locations for less than seventy-two hours).
- (14) Ohio Admin. Code 1501:9-4-02 (G)(1) requires that facility owners “[e]xecute and file with the Division financial assurance conditioned on compliance with Chapter 1509 of the Revised Code, Division 1501:9 of the Administrative Code, and all rules and orders issued pursuant to either.” The amount of the financial assurance required is based on the amount of waste permitted to be stored.
- (15) As of the date of this Order, AMS has executed and filed with the Division two assigned certificates of deposit providing \$527,486.00 of financial assurance pursuant to Ohio Admin. Code 1501:9-4-02(G)(1). This amount was determined based on the permitted storage amounts and does not account for storage of waste in excess of that amount, including the waste stored in the gondola railcars.
- (16) Ohio Admin. Code 1501:9-4-06(K)(1) states “[T]he chief may immediately suspend operations at an oil and gas waste facility if any of the following apply:
 - a. The oil and gas waste facility is operated in a manner different than the approved permit and any approved modifications or amendments;
 - b. The operation of the oil and gas waste facility does not perform or is likely not to perform as designed;
 - c. The oil and gas waste facility does not or is likely not to perform in a manner that supports safe production operations;
 - d. The operation of the oil and gas waste facility fails or could reasonably be anticipated to fail to protect public health and safety;
 - e. The operation of the oil and gas waste facility causes or could reasonably be anticipated to cause damage to the environment;
 - f. The oil and gas waste facility is operated outside of the designated oil and gas waste facility boundary;
 - g. Any violation of a term or condition of an approved permit, Chapter 1509 of the Revised Code or Division 1501:9 of the Administrative Code.; and

- h. Operations at the class II disposal well associated with the oil and gas waste facility are suspended under rule 1501:9-3-07 of the Administrative Code or the class II disposal well associated with the oil and gas waste facility is ordered to be plugged by the chief.”
- (17) On March 19, 2024, the Chief issued Chief's Order No. 2024-78 suspending AMS operations because the Facility was operated in a manner different than the approved Permit and was in violation of the permit the Division issued to it, R.C. 1509.03(D), and Ohio Admin. Code 1501:9-4. The Order was issued as a preliminary order.
- (18) On March 25, 2024, the Division, through its counsel, filed a complaint and motion for temporary restraining order and preliminary injunction in the Belmont County Court of Common Pleas, asking the Court to immediately enjoin AMS from committing further violations of Chapter 1509 and the rules promulgated thereunder and to “take such action as is necessary to return the Facility to compliance and remove the threats to public health and safety and the environment.”
- (19) On March 26, 2024, the Court issued the requested temporary restraining order without a hearing.
- (20) On April 3, 2024, the Court held a preliminary injunction hearing at which the Division presented evidence of AMS's violations and the threat to public health and safety and the environment. Following the hearing, the Court issued a preliminary injunction incorporating the relief previously contained in the temporary restraining order. Among other requirements, that Preliminary Injunction Order mandated that AMS “return to compliance with the terms of its permit application approved by Permit WF 2022-05 and with Ohio laws in RC Chapter 1509 and rules promulgated thereunder” by April 17, 2024. A copy of the Preliminary Injunction Order is attached as Exhibit 6.
- (21) On April 1, 2024, AMS requested an informal hearing pursuant to R.C. 1509.224(B).
- (22) On April 10, 2024, the Division held an informal hearing pursuant to R.C. 1509.224(B) to provide AMS with an opportunity to present evidence as to why Chief's Order 2023-122 should be revoked or modified. Brad Domitrovitsch and AMS's counsel, Steven Anderson, attended the meeting and presented evidence and information on behalf of AMS.
- (23) The Chief considered the information that Brad Domitrovitsch and Steven Anderson provided on AMS's behalf during the informal hearing.

FINDINGS:

- (1) The Chief finds that AMS has allowed primary containment to overflow and is using secondary containment as primary containment in violation of Ohio Admin. Code 1501:9-4-06(C)(1)(d).
- (2) The Chief finds that AMS used three roll-off containers, a green frac tank, and the gondola railcars to store waste without obtaining an amendment to its Permit in violation of Ohio Adm. Code 1501:9-4-05(C)(1).

- (3) The Chief finds that the amount of financial assurance is not sufficient to meet the requirements of the Ohio Admin. Code 1501:9-4-02(G)(1) due to the additional amount of waste being stored on site.
- (4) The Chief finds that a suspension of operations at the Facility is lawful and reasonable under Ohio Admin. Code 1501:9-4-06(K)(1) because:
 - a. The Facility was operated in a manner different than the approved Permit; and
 - b. The Facility is in violation of the Permit issued to it, R.C. 1509.03(D), and Ohio Admin. Code 1501:9-4.
- (5) The Chief finds no basis for revoking or modifying Chief's Order 2024-78, other than as described below to make this Order consistent with the Court's Preliminary Injunction order.
- (6) The Chief finds AMS's suggestion that the deadline for starting the initial phases of the clean-up process be extended an additional 45 to 60 days is not sufficiently protective of public health and safety or the environment and therefore is not reasonable.

ORDERS:

IT IS HEREBY ORDERED:

- (1) AMS shall remain suspended in its operations at the Facility and shall continue to refrain from accepting waste at the Facility.
- (2) AMS shall continue to remove all liquids from the Facility floor and secondary containment areas at the Facility and keep these areas free from liquid waste.
- (3) Within 14 days after the receipt of this Chief's Order, AMS shall provide financial assurance in accordance with Ohio Admin. Code 1501:9-4-02(G)(1) for the storage capacity of the railcars and additional waste volumes being stored at the Facility exceeding the volume provided for in the Permit.
- (4) Not later than April 17, 2024, AMS shall take all actions necessary to comply with the terms of its permit application approved by Permit WF 2022-05, R.C. Chapter 1509, and rules adopted under it, including but not limited to those actions specified in the Court's April 3, 2024, Preliminary Injunction Order.
- (5) Not later than 14 days after the receipt of this final Chief's Order, AMS shall submit for review a written plan that describes all actions AMS has taken to correct the violations listed in the Findings and that outlines in detail AMS's plan to prevent future violations, including a timeline showing when and how it intends to ultimately treat and dispose of all remaining waste at the Facility and its intentions with respect to the future operations of the Facility.

April 17, 2024

Eric Vendel

Date

Eric Vendel, Chief
Division of Oil and Gas Resources Management

Addressee is hereby notified that this action is a final order and may be appealed pursuant to Sections 1509.36 and 1509.37 of the Ohio Revised Code. If the Order is appealed to the Ohio Oil and Gas Commission, the appeal must be in writing and must set forth the orders complained of and the grounds upon which the appeal is based. Such appeal must be filed with the Oil and Gas Commission, 2045 Morse Road, Building E-1, Office 103, Columbus, Ohio 43229, within 30 days after the date on which the person to whom the order was issued receives the Order and, for all other persons adversely affected by the Order, within 30 days after the date of the Order.

In addition, within three days after the appeal is filed with the Oil and Gas Commission, notice of the filing of the appeal must be filed with Eric Vendel, Chief of the Division of Oil and Gas Resources Management, 2045 Morse Road, Building F, Columbus, Ohio 43229-6693.

CERTIFIED MAIL No: 9489009000276517539558

Enclosures:

- Exhibit 1
- Exhibit 2
- Exhibit 3
- Exhibit 4
- Exhibit 5
- Exhibit 6

cc:

Austin Master Services, Inc.
4400 Easton Commons Way, Suite 125
Columbus, Ohio 43219

9489009000276517539565

EXHIBIT 1

OHIO DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF OIL AND GAS RESOURCES MANAGEMENT



PERMIT TO CONSTRUCT AN OIL AND GAS WASTE FACILITY

FACILITY NAME: AMS Martins Ferry Facility		WF ID#: BELM-05	PERMIT#: WF-2022-05
OWNER NAME: Austin Master Services, LLC		OWNER PHONE: (740) 609-3800	OWNER#: 35014
OWNER ADDRESS: 801 North First Street, Martins Ferry, OH 43935			
PURSUANT TO OHIO REVISED CODE 1509.22 AND CHAPTER 1501:9-4 OF THE OHIO ADMINISTRATIVE CODE, AUSTIN MASTER SERVICES, LLC IS HEREBY GRANTED AUTHORIZATION TO CONSTRUCT THE AMS MARTINS FERRY FACILITY LOCATED AT THE ADDRESS LISTED IN THIS PERMIT. PURPOSE OF THE FACILITY IS TO STORE, TREAT, AND PROCESS BRINE, DRILL CUTTINGS, USED DRILLING MUDS, USED PROPPANT, USED FILTER MEDIA, GENERATED SOUDS, FLOWBACK OR RECYLCED WATER, AND ALL OTHER RCRA EXEMPT OIL AND GAS EXPLORATION AND PRODUCTION WASTE SUBSTANCES.			
DATE EFFECTIVE: 7/12/2022		DATE CERTIFICATION DOCUMENTS DUE TO OBTAIN LETTER OF COMMENCEMENT: 7/12/2024	
FACILITY LOCATION INFORMATION			
COUNTY: Belmont		TOWNSHIP: Martins Ferry	
FACILITY ADDRESS: 801 North First Street, Martins Ferry, OH 43935			
CENTERLINE OF ACCESS ROAD AT PUBLIC RIGHT-OF-WAY: LATITUDE: 40.103039 LONGITUDE: -80.710523			
FACILITY CONTACT INFORMATION			
NAME: Joseph Bement		PHONE: (740) 609-3800	EMAIL ADDRESS: joebement@austinmasterservices.com
PERMIT CONDITIONS			
1) PERMITTEE SHALL COMPLY WITH THIS PERMIT, OHIO REVISED CODE CHAPTER 1509, OHIO ADMINISTRATIVE CODE 1501:9-4, AND ANY OTHER APPLICABLE LAWS.			
ERIC VENDEL, Chief Division of Oil and Gas Resources Management			

EXHIBIT 2

OHIO DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL AND GAS RESOURCES MANAGEMENT



**LETTER OF COMMENCEMENT
TO OPERATE AN OIL AND GAS WASTE FACILITY**


FACILITY NAME: AMS Martins Ferry Facility		WF ID#: BELM-05	DATE EFFECTIVE: 7/12/22
		PERMIT#: WF-2022-05	
OWNER NAME: Austin Master Services, LLC		OWNER PHONE: (740) 609-3800	OWNER#: 35014
OWNER ADDRESS: 801 North First Street, Martins Ferry, OH 43935			
PURSUANT TO CHAPTER 1501:9-4 OF THE ADMINISTRATIVE CODE, AUSTIN MASTER SERVICES, LLC IS HEREBY AUTHORIZED TO COMMENCE OPERATIONS AT THE AMS MARTINS FERRY FACILITY. THE AMS MARTINS FERRY FACILITY IS AUTHORIZED TO STORE, TREAT, AND PROCESS BRINE, DRILL CUTTINGS, USED DRILLING MUDS, USED PROPPANT, USED FILTER MEDIA, GENERATED SOLIDS, FLOWBACK OR RECYCLED WATER, AND ALL OTHER RCRA EXEMPT OIL AND GAS EXPLORATION AND PRODUCTION WASTE SUBSTANCES.			
FACILITY LOCATION INFORMATION			
COUNTY: Belmont		TOWNSHIP: Martins Ferry	
FACILITY ADDRESS: 801 North First Street, Martins Ferry, OH 43935			
CENTERLINE OF ACCESS ROAD AT PUBLIC RIGHT-OF-WAY: LATITUDE: 40.103039 LONGITUDE: -80.710523			
FACILITY CONTACT INFORMATION			
NAME: Joseph Bement		PHONE: (740) 609-3800	EMAIL ADDRESS: joebement@austinmasterservices.com
SPECIAL CONDITIONS			
1) PERMITTEE SHALL CONDUCT ALL OPERATIONS IN COMPLIANCE WITH THE PERMIT, OHIO REVISED CODE CHAPTER 1509, OHIO ADMINISTRATIVE CODE 1501:9-4, AND ANY OTHER APPLICABLE LAWS.			
			
ERIC VENDEL, Chief			
Division of Oil and Gas Resources Management			

EXHIBIT 3



OHIO DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF OIL AND GAS RESOURCES MANAGEMENT
 2045 MORSE RD, BLDG F, COLUMBUS, OH 43229

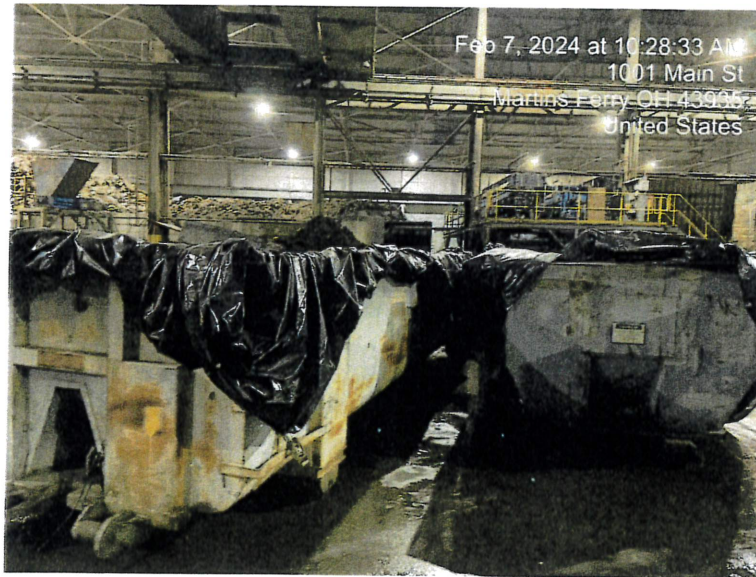


OIL AND GAS WASTE FACILITY INSPECTION REPORT

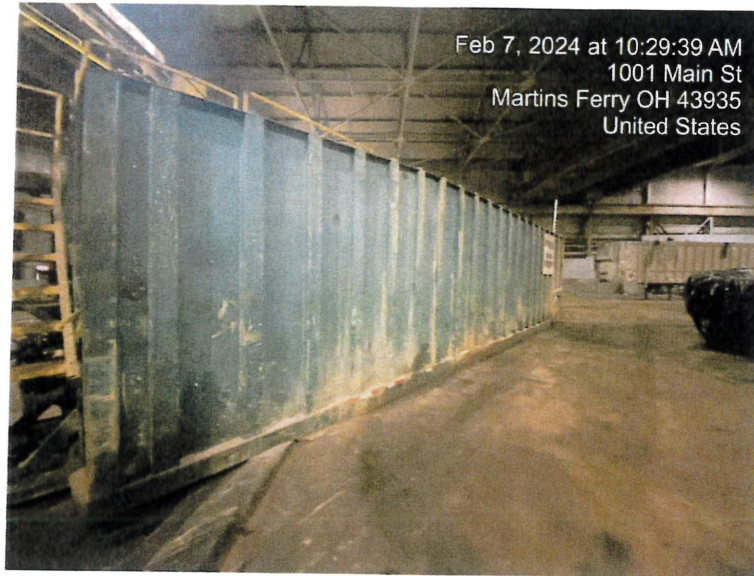
FACILITY INFORMATION		
FACILITY NAME: AMS Martins Ferry Facility		PERMIT NUMBER: WF-2022-05
OWNER: Austin Master Services, LLC	COUNTY: Belmont	
INSPECTION INFORMATION		
DATE: 2/7/2024		PURPOSE: Routine
WEATHER: 28 F Sunny	TIME IN: 9:55 AM	TIME OUT: 11:20 AM
ATTENDEES: DOGRM: Brian Jacoby, Tara Lee, Paul Carder; AMS: Kurtis Hoffman, Joe Bement		
INSPECTION COMMENTS		
<p>Facility was in operation at the time of inspection. Solid waste accumulation at the facility is exceeding the primary containment storage capacity. Facility secondary containment is being used as primary containment. On the west side of the facility, near the filter presses and filtrate water half-round, three roll-off containers and a green frac tank were being used to store waste.</p>		
NOTIFICATION INFORMATION		
TYPE OF NOTIFICATION: Notification of Violation		
REFERENCE TO LAW: 1501:9-4-05 (C)(1), 1501:9-4-06 (C)(1)(d)		
DESCRIPTION OF NOTIFICATION: Permittee has revised an oil and gas waste facility without submitting a request for an amendment. Permittee is using secondary containment as primary containment.		
COMPLIANCE REQUIREMENTS: Remove waste from the facility as needed to maintain an accumulation equal to or less than the capacity of permitted primary containments. Submit a request for an amendment for the addition of the three noted roll-off containers and frac tank. Work to be completed by March 15, 2024.		
ADDITIONAL COMMENTS:		



Additional storage

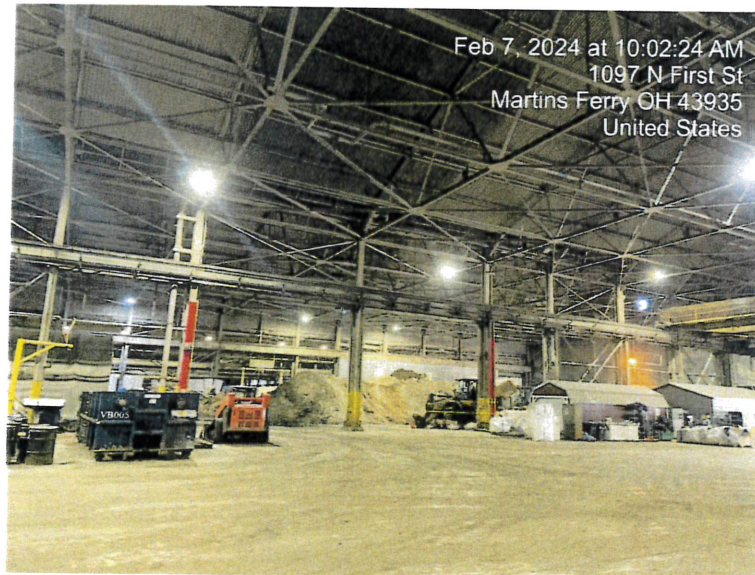


Additional storage



Feb 7, 2024 at 10:29:39 AM
1001 Main St
Martins Ferry OH 43935
United States

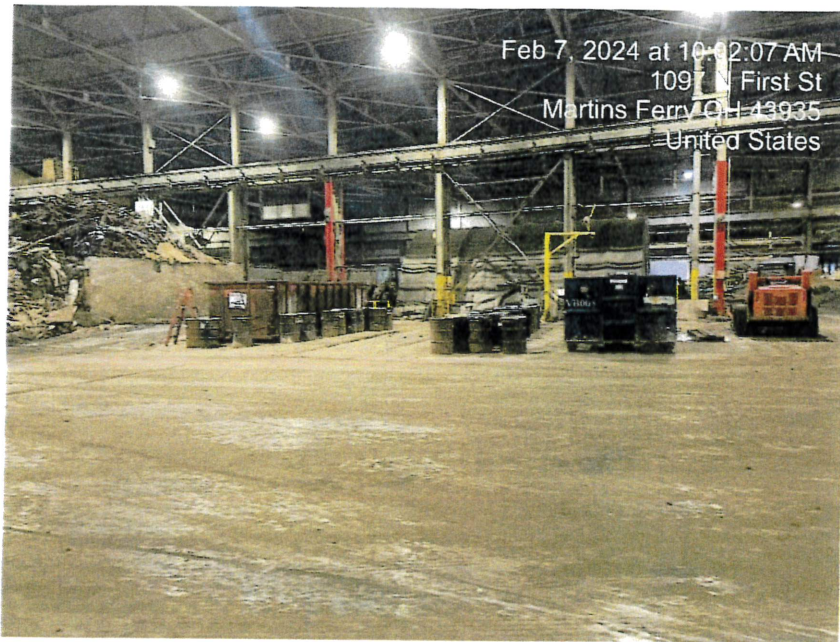
Additional storage



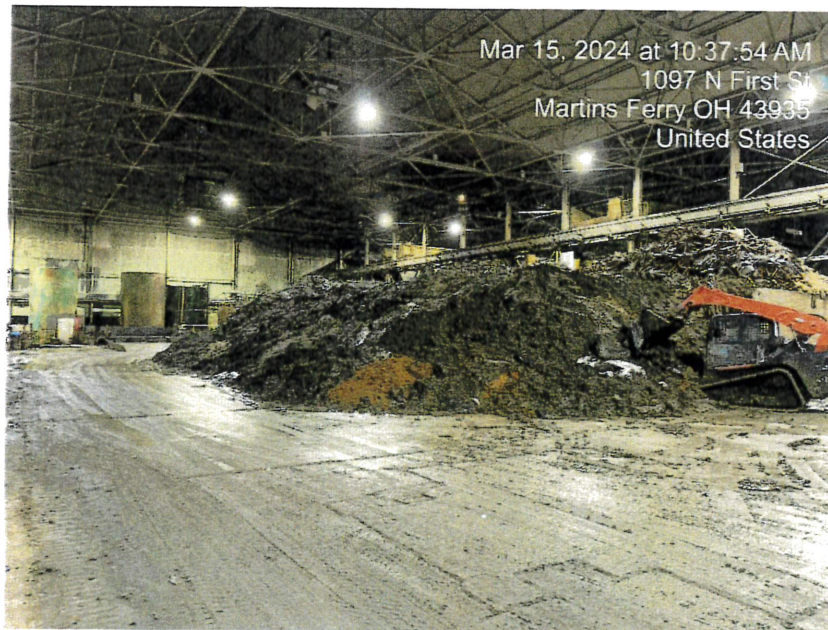
Feb 7, 2024 at 10:02:24 AM
1097 N First St
Martins Ferry OH 43935
United States

Facility, facing NW

EXHIBIT 4



Higher Level Processing Area on 2/7/24



Higher Level Processing Area on 3/15/24

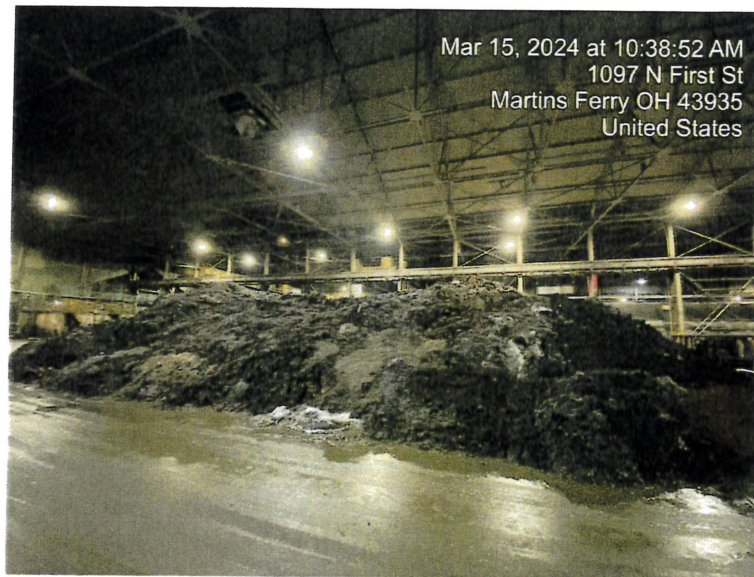


OIL AND GAS WASTE FACILITY INSPECTION REPORT

FACILITY INFORMATION		
FACILITY NAME: AMS Martins Ferry Facility		PERMIT NUMBER: WF-2022-05
OWNER: Austin Master Services, LLC	COUNTY: Belmont	
INSPECTION INFORMATION		
DATE: 3/15/2024		PURPOSE: Follow-up
WEATHER: 55 F Cloudy	TIME IN: 10:25 AM	TIME OUT: 11:35 AM
ATTENDEES: DOGRM: Brian Jacoby, Paul Carder, Rob Leidy, AMS: Joe Bement, Kurtis Hoffman		
INSPECTION COMMENTS		
<p>Conditions at the facility have worsened since previous inspection. Solid and liquid waste was outside primary containment throughout the facility. A vacuum truck was present removing liquid waste from the floor. Five fully-loaded railcars were present in the railcar area.</p>		
NOTIFICATION INFORMATION		
TYPE OF NOTIFICATION: Notification of Violation		
REFERENCE TO LAW: 1501:9-4-06 (C)(1)(d), 1501:9-4-06 (C)(2)(b), 1501:9-4-06 (D)(1)		
DESCRIPTION OF NOTIFICATION: Permittee has allowed primary containment to overflow and is using secondary containment as primary containment. Permittee has operated primary containments in a manner that does not prevent the release of waste substances from the containment. Permittee is not storing solids within primary and secondary containment.		
COMPLIANCE REQUIREMENTS: Immediately remove and lawfully dispose of all liquid waste outside primary containment. Remove solid waste from the facility as needed to maintain an accumulation equal to or less than the capacity of permitted primary containments. Develop an inspection procedure and a standard form for recording inspection data. Submit for approval a written description of the inspection procedure, an inspection frequency or schedule and the form that is to be used. Upon approval, permittee shall commence with the approved procedure, and shall submit each completed inspection form within one business day of the inspection.		
ADDITIONAL COMMENTS:		



Railcar 31732

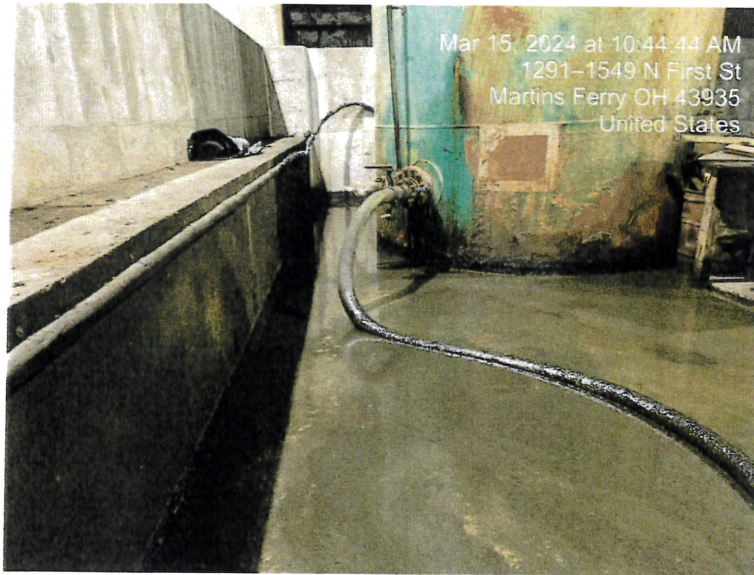


Solid waste



Mar 15, 2024 at 10:43:38 AM
1001 Main St
Martins Ferry, OH 43935
United States

Filter press solids storage area

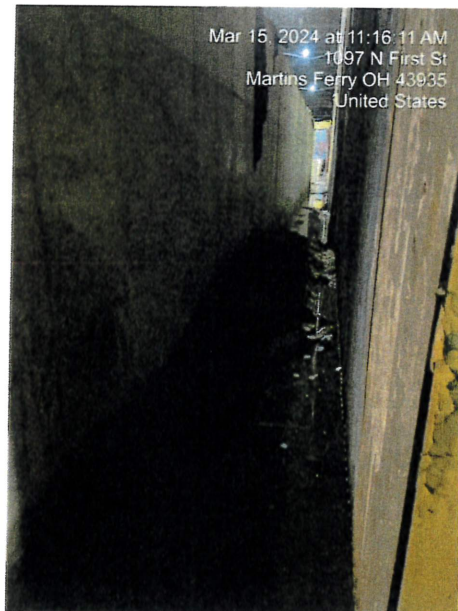


Mar 15, 2024 at 10:44:44 AM
1291-1549 N First St
Martins Ferry, OH 43935
United States

Secondary containment area for the south unloading area



Liquid waste outside containment



Waste behind bins

EXHIBIT 6
CLERK SERVED COPIES ON
ALL THE PARTIES OR
THEIR ATTORNEYS

COMMON PLEAS COURT
BELMONT CO. OH

2024 APR -4 PM 2:59

LAURA A. ZUPKO
CLERK OF COURT

**IN THE COMMON PLEAS COURT
BELMONT COUNTY, OHIO**

STATE OF OHIO, ex rel.	:	
DAVE YOST,	:	
OHIO ATTORNEY GENERAL,	:	CASE NO. 24 CV 79
	:	
Plaintiff,	:	
	:	
v.	:	JUDGE VAVRA
	:	
AUSTIN MASTER SERVICES, LLC,	:	
	:	
Defendant.	:	

ORDER GRANTING PRELIMINARY INJUNCTION

This Court, by order dated March 26, 2024, previously sustained Plaintiff State of Ohio's Motion for a Temporary Restraining Order and Preliminary Injunction with regard to the State's request for a temporary restraining order.

Pursuant to Civ. R. 65(A), this matter came before the Court for hearing on April 3, 2024, on the State's motion with regard to its request for a preliminary injunction against Defendant Austin Master Services, LLC ("Defendant AMS"). The State and Defendant AMS were both represented by counsel.

Now, upon consideration of the evidence presented and testimony heard, the Court finds that Plaintiff is entitled to an injunction pursuant to R.C. 1509.04(G) and Civ. R. 65(A), and hereby SUSTAINS the motion and GRANTS the request for preliminary injunctive relief.

IT IS HEREBY ORDERED THAT:

1. Defendant AMS is prohibited from accepting waste at its oil and gas waste facility located at 801 North First Street, Martins Ferry, Ohio ("the Facility") until such time as this Court grants relief from this prohibition.

2. Defendant AMS' operations at the Facility shall remain suspended, other than those necessary to assure a return to compliance with Ohio laws in R.C. Chapter 1509 and rules promulgated thereunder.
3. Defendant AMS shall, on or before April 17, 2024, return to compliance with the terms of its permit application approved by Permit WF-2022-05 and with Ohio laws in R.C. Chapter 1509 and rules promulgated thereunder. To comply with this requirement:
 - a. Defendant AMS shall continue to remove all liquids, including sludges, from the Facility floor and secondary containment areas at the Facility and properly dispose of them in accordance with the requirements of Ohio Adm.Code Chapter 1501:9-4 and all other applicable laws.
 - b. Defendant AMS shall, on or before April 17, 2024, transport all waste contained in railcars at the Facility offsite, and shall transport the railcars as expeditiously as possible to a lawful dispose of the waste. Defendant shall not cause the railcars to be stored or otherwise held at any other location; the preceding prohibition does not prohibit the railroad company from holding the railcars during normal transport of such material, so long as such holding is not directed by AMS.
 - c. Defendant AMS shall, on or before April 17, 2024, or such additional time as is agreed in writing by the chief of the Division, remove all solid waste and other waste substances, as defined in Ohio Adm. Code 1501:9-04-01, from the Facility floor and secondary containment areas at the Facility and lawfully dispose of them. The areas and equipment to which this

requirement applies include but is not limited to the wastes in the three roll-off containers and the green frac tank at the Facility.

- d. Defendant AMS shall, on or before April 17, 2024, or such additional time as is agreed in writing by the chief of the Division, remove and dispose of all liquids, including sludges, all solids, and all other wastes that exceed the maximum volume allowed under the permit application approved by Permit WF-2022-05. AMS shall properly dispose of them in accordance with the requirements of Ohio Adm.Code Chapter 1501:9-4 and all other applicable laws.
- e. Defendant AMS shall, on or before April 17, 2024, employ a Radiation Safety Officer for the Facility as identified and described in AMS' permit application approved in Permit WF-2022-05.
- f. Defendant AMS shall, on or before April 17, 2024, conduct, and continue to conduct, all inspections required under the permit application approved by Permit WF-2022-05 and all rules contained in Ohio Adm.Code Chapter 1501:9-4 applicable to such inspections.

Per Civ.R. 65(D), this Order shall be binding upon Defendant AMS, its officers, agents, servants, employees, contractors and all those persons in active concert or participation with them who receive actual notice of the order whether by personal service or otherwise.

No surety or bond shall be required of the State of Ohio.

IT IS SO ORDERED.

April 4, 2024
DATE

John A. Vavra
JUDGE JOHN A. VAVRA