

**CLEAN WATER ACT COMPLIANCE EVALUATION INSPECTION REPORT
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

Purpose: Stormwater Inspection

Facility: Midstates Rail LLC (Midstates Rail)
13830 Brainard Avenue
Burnham, Illinois 60633

Date of Inspection: April 13, 2022

EPA Representatives:

Ray Cullen, Environmental Engineer
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WECAB, Section 2
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Facility Representatives:

Carlos Sotelo, Yard Manager, (773) 899-6769, carlos@midstatesrail.com

Report Prepared by: Ray Cullen

Inspector Signature: RAYMOND CULLEN
Ray Cullen

Digitally signed by RAYMOND CULLEN
Date: 2022.06.06 09:46:51 -05'00'

Approver Name and Title: Ryan J. Bahr, Supervisor
WECAB, Section 2

Approver Signature and Date: Bahr, Ryan
Digitally signed by Bahr, Ryan
Date: 2022.06.06 15:21:03 -05'00'

Purpose of Inspection:

Ben Atkinson and I, from EPA Region 5's WECAB, conducted an announced stormwater inspection of Midstates Rail's Burnham, Illinois site to assess its compliance with the Clean Water Act and to evaluate if coverage under Illinois EPA's General National Pollutant Discharge Elimination System (NPDES) Permit for Stormwater Discharges from Industrial Activities is required. This is the first time that EPA has inspected the site.

Arrival Time: 1:10 p.m.

Departure Time: 3 p.m.

- Credentials presented
- CBI protection assurances discussed

After greeting us upon our arrival, Mr. Sotelo led us to a room in the main office building near the property entrance where we proceeded to discuss the purpose of our visit and inquire about site operations. All information below, unless otherwise noted, was obtained from him.

Site Background and Operations:

Midstates Rail is a railroad material wholesaler that currently owns and operates two yards: one located in Burnham, Illinois (hereafter, "the site") and the other in Columbia, Tennessee. The site sits immediately to the east of Powder Horn Lake, which is impaired for fish and shellfish consumption due to mercury and polychlorinated biphenyls. *See* Attachment 1 for a satellite view of the site. Midstates Rail employs 13 people at the site, and approximately 40 people across the whole company. It began operating the site in April 2021 after purchasing it from Scrap Metal Services and moving its Chicago Heights, Illinois operations there. It has a fleet of trucks (not kept on-site) that field crews use to traverse railroads across the Midwest, South, and Southeast regions of the country to remove and collect railroad material, including rails, ties, and other track material (OTM) (e.g., spikes, anchors, tie plates, joint bars, etc.). After being unloaded at the site, the yard crew separates scrap from relay material and organizes the piles per project. Midstates Rail sells the former to mills for processing and the latter, which it can cut and drill to customer specifications, to railroad companies for reuse. Certain material, such as spikes and bolts, are not reused. The site gets approximately five railcars a month and 15 trucks a day. Scrap typically stays on-site about a month, while relay may remain for several months.

On-site operations include processing of the railroad material via torch cutting, drilling, and grading, along with tie pre-plating and plate punching, according to its website. There are three to four torches and four drills on-site. Midstates Rail uses water on-site to wash machines and to keep the drill bits from burning (Photo 3, *see* Attachment 2). Mr. Sotelo had expected to receive a pressure washing machine for cleaning parts about a month after the inspection, which will be located in a dedicated staging area. Lastly, with regard to water usage at the site, Midstates Rail does not use any for dust suppression.

Mr. Sotelo did not know the primary Standard Industrial Classification (SIC) code that applies to the site.

Facility Tour

Mr. Sotelo began escorting us around the property at 1:40 p.m. *See Attachment 2* for a photo log. We headed from the office building at the south end of the property to a building immediately to the east, referred to as “the shop,” that housed a couple of drums and a tote of diesel exhaust fluid (Photos 1 and 2). From there, he led us to the north end (“the back”) of the site. There, we saw some standing water around scrap near tall grass through which Powder Horn Lake is accessible (Photos 4-6). Throughout the site along the way were several piles of rails, ties, and OTM, mostly located on the north half of the site.

Shortly after arriving at the back of the site, Mr. Sotelo left to handle some business and allowed Mr. Atkinson and I to continue touring the site on our own. We began walking south along the western edge of the property before heading over to the east side. On the northwest side, Midstates Rail had placed trees and large branches to function as a barrier to the lake, but there were gaps between some of the branches along the ground. (Photo 7). South of these felled trees is a soil berm along the western border of the site, with water on the ground at several spots along the outside of it (Photos 8, 10, and 12-14). At least one spot of the berm was open with what appeared to be a slight sloping gradient toward Powder Horn Lake (Photo 11). Along the berm at some spots were tire tracks from vehicles traveling along the top of it, and there was evidence of erosion to the west of the berm (Photo 14).

On the northeast side of the site, about 25 railcars line the perimeter. There is an opening, near a pile of railroad ties, between two of these cars (Photos 16-18). To the south, next to piles of railroad ties, is a chain link fence (Photos 20-23). In this area, in the southeast corner of the site is a large pool of water next to the fence that appears to have oil staining on the ground.

We concluded our tour at 2:55 p.m. A few minutes later from our vehicle and before leaving the site, we left a voicemail with Mr. Sotelo telling him our concerns.

Areas of Concern

We relayed the following areas of concern observed during the inspection:

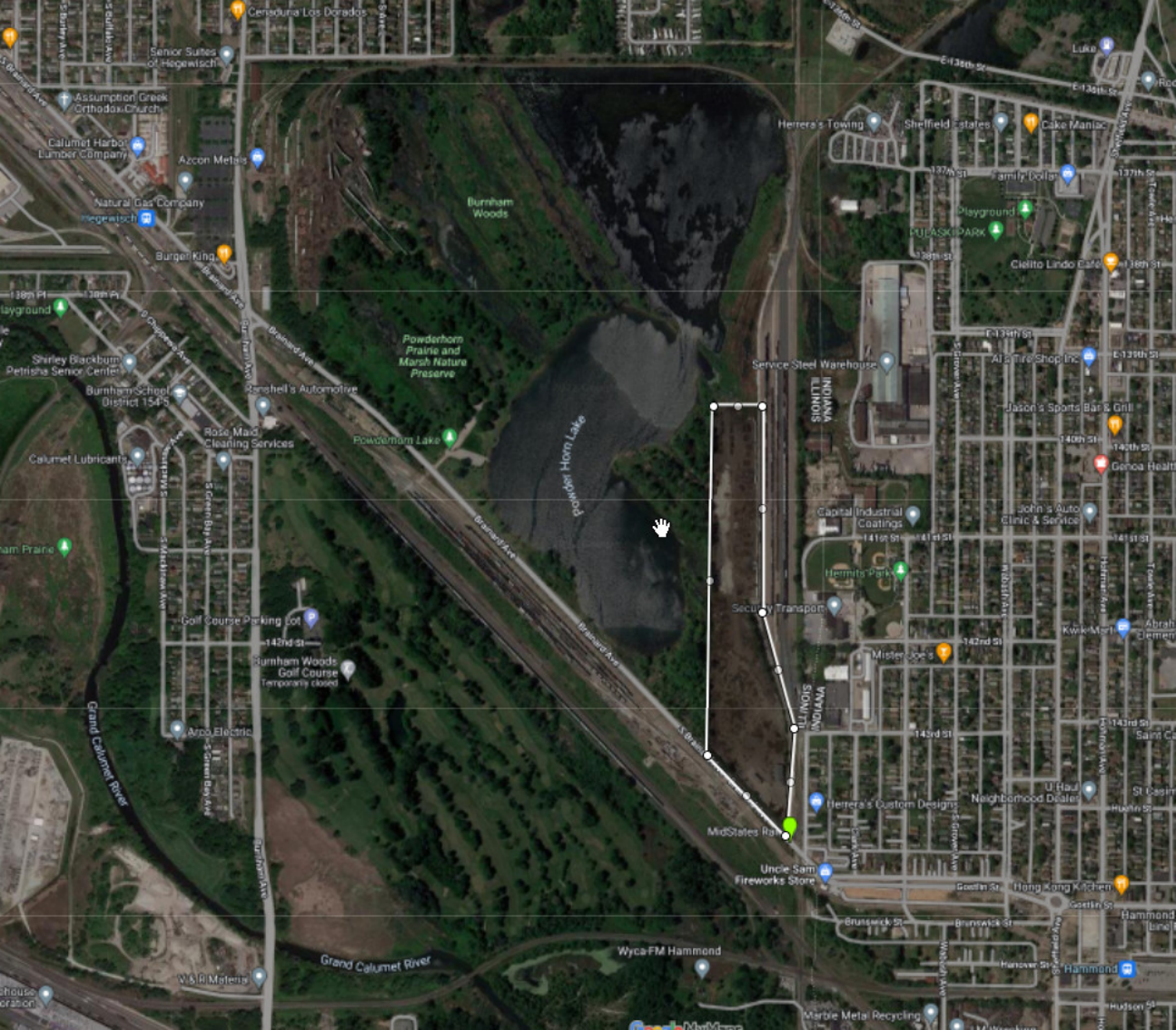
1. Midstates Rail may need to apply for coverage under Illinois EPA’s General Stormwater NPDES Permit for Industrial Activity.
2. Although there are cut trees, a soil berm, and railcars creating a wall around much of the property, there was not complete containment to keep stormwater from leaving the site.

Attachments

1. Satellite view of the site
2. Photo log

Attachment 1

Satellite view of the site



Attachment 2

Photo log

**Midstates Rail LLC
Photo Log
EPA Inspection April 13, 2022
All photos taken by Ray Cullen, Environmental Engineer, EPA**



1: IMG_0226

Description: Tote containing diesel exhaust fluid
Location: Building on southeast corner of the site
Camera Direction: Southwest
Date/Time: 4/13/22, 1:40 p.m.



2: IMG_0227

Description: Drums containing diesel exhaust fluid

Location: Same as Photo 1

Camera Direction: North

Date/Time: 4/13/22, 1:41 p.m.



3: IMG_0228

Description: Drill with tank of water used for cooling

Location: Northeast side

Camera Direction: Southeast

Date/Time: 4/13/22, 2:01 p.m.



4: IMG_0229

Description: Damp ground around scrap with Powder Horn Lake just beyond the tall grass

Location: North side

Camera Direction: North

Date/Time: 4/13/22, 2:09 p.m.



5: IMG_0230

Description: Same as Photo 4 but zoomed in

Location: North side, same as Photo 4

Camera Direction: North

Date/Time: 4/13/22, 2:09 p.m.



6: IMG_0231

Description: Closer view of the wet ground at the foot of the grass shown in Photos 4 and 5

Location: North side, same as Photo 4

Camera Direction: North

Date/Time: 4/13/22, 2:11 p.m.



7: IMG_0232

Description: Felled tree acting as a barrier to Powder Horn Lake

Location: Northwest side

Camera Direction: West

Date/Time: 4/13/22, 2:12 p.m.



8: IMG_0233

Description: Soil berm along west border of the site

Location: Northwest side, south of Photo 7

Camera Direction: Southwest

Date/Time: 4/13/22, 2:14 p.m.



9: IMG_0234

Description: Piles of rails

Location: North side, near Photo 8 but facing different direction

Camera Direction: Northeast

Date/Time: 4/13/22, 2:16 p.m.



10: IMG_0235

Description: Tire tracks on soil berm with pooled water to the west

Location: Northwest side, south of Photo 8

Camera Direction: South

Date/Time: 4/13/22, 2:19 p.m.



11: IMG_0236

Description: Open section of soil berm that appeared to have slight downward sloping toward Powder Horn Lake

Location: West side, south of Photo 10

Camera Direction: West

Date/Time: 4/13/22, 2:21 p.m.



12: IMG_0237

Description: Tire tracks on soil berm with pooled water to the west

Location: West side

Camera Direction: Southwest

Date/Time: 4/13/22, 2:23 p.m.



13: IMG_0238

Description: Tie plates piled over the top of stone-walled, separated storage areas

Location: West side, near middle of site

Camera Direction: North

Date/Time: 4/13/22, 2:24 p.m.



14: IMG_0239

Description: Powder Horn Lake marsh/wetland against west side of site

Location: West side, south of Photo 13

Camera Direction: Northwest

Date/Time: 4/13/22, 2:27 p.m.



15: IMG_0240

Description: Piles of scrap

Location: Middle of site

Camera Direction: East

Date/Time: 4/13/22, 2:29 p.m.



16: IMG_0241

Description: Piles of railroad tie scrap

Location: Middle of site

Camera Direction: East

Date/Time: 4/13/22, 2:33 p.m.



17: IMG_0242

Description: Opening between railcars (shown in Photo 16) bordering east side of site

Location: Near middle of eastern border of site

Camera Direction: East

Date/Time: 4/13/22, 2:35 p.m.



18: IMG_0243

Description: Zoomed out view of Photo 17, with railroad tie scrap in foreground

Location: East side, near middle of site

Camera Direction: East

Date/Time: 4/13/22, 2:35 p.m.



19: IMG_0244

Description: Piles of railroad tie relay and other track material

Location: Middle of site

Camera Direction: East

Date/Time: 4/13/22, 2:40 p.m.



20: IMG_0245

Description: Piles of railroad ties near chain link fence along eastern border of site
Location: East side, near middle of site
Camera Direction: Northeast
Date/Time: 4/13/22, 2:43 p.m.



21: IMG_0246

Description: Low section of ground that appeared to slope downward toward chain link fence
Location: Near middle of eastern border of site, south of Photo 17
Camera Direction: Southeast
Date/Time: 4/13/22, 2:46 p.m.



22: IMG_0247

Description: Piles of railroad material

Location: Southeast side, by railroad tracks entering site

Camera Direction: Southeast

Date/Time: 4/13/22, 2:50 p.m.



23: IMG_0248

Description: What appears to be oil staining by the small pond shown in Photo 22

Location: Southeast side

Camera Direction: Northeast

Date/Time: 4/13/22, 2:53 p.m.