



REGION 10

SEATTLE, WA 98101

Reply To: 20-C04

RETURN RECEIPT REQUESTED

Mr. James Brainard
Process and Controls Manager
Virginia Transformer Corporation
3770 Pole Line Road, #37
Pocatello, Idaho 83201

Re: **NOTICE OF VIOLATION**
Virginia Transformer Corporation, Pocatello, Idaho

Dear Mr. Brainard:

The U.S. Environmental Protection Agency (EPA) is investigating the approximate 6,000-gallon (143 barrel) discharge of mineral oil beginning on November 2, 2022, into Pocatello Creek and the Portneuf River. This discharge was released from a 30,000-gallon rail car tanker located at the Virginia Transformer Corporation facility ("Facility") located in Pocatello, Idaho.

The purpose of this Notice of Violation (NOV) is to notify your Facility of EPA's ongoing investigation regarding this discharge, in violation of Section 311(b)(3) of the Clean Water Act (CWA), 33 U.S.C. § 1321(b)(3) and to request additional information.

As you are aware, EPA performed a Spill Prevention, Control and Countermeasures (SPCC) inspection at the Facility on October 17, 2023, regarding the Facility's compliance with the requirements of the CWA and Oil Pollution Prevention regulations found at 40 C.F.R. Part 112. The final SPCC inspection checklist was emailed to the Facility on December 13, 2023. For more information about spill prevention requirements, please visit the EPA's webpage: <https://www.epa.gov/oil-spills-prevention-and-preparedness-regulations>.

As part of this NOV, EPA is requesting additional information related to the oil spill in November 2022. Within **30 days of receipt of this letter**, please provide any documents or information you have that address the bulleted list of inquiries below.

1. All documents regarding and related to the clean-up/recovery/removal, analysis and ultimate disposal of mineral oil product released and recovered, including mineral oil-affected liquids (e.g., mineral oil and water mixtures) and mineral oil-affected solid waste (e.g., spent

absorbents, oily solids, oiled debris, etc.). Documents request includes but is not limited to the following:

- a. Clean Harbors waste material profile sheets;
 - b. Laboratory analytical reports (e.g., Pace Analytics for Clean Harbor);
 - c. Simco Environmental pumpable waste profile report(s);
 - d. Waste manifests (e.g., Clean Harbors Grassy Mountain LLC (e.g., mineral oil impacted debris); Clean Harbors Environmental Services Inc. manifests for disposal of liquid wastes at Simco Environmental, LLC (Mayfield, ID) facility; etc.); and
 - e. Simco Environmental, LLC (Mayfield, ID) facility's scale/tare tickets/sheets.
2. Information, descriptions, calculations and documents on how VTCU made initial rail car spill/discharge volume estimates in the approximate November 2-16, 2022, time period which spill/discharge volume estimates were conveyed to responding regulatory agencies (e.g., EPA, IDEQ). Information should include but not be limited to the following items:
 - a. On what date did the railroad company position and turn over the rail car from which the mineral oil spill spill/discharge occurred to VTCU;
 - b. What was the gross volume of mineral oil in the delivered rail car;
 - c. How many separate mineral oil transfer events occurred prior to the November 2, 2022, rail car spill/discharge (i.e., what dates was mineral oil transferred from the rail car to VTCU aboveground oil storage tanks within the Facility's building #37 tank farm(s) and for each transfer event, what was the amount/volume transferred); and
 - d. How much mineral oil, if any, remained in the rail car after the discovery of the rail car discharge/spill, and if any mineral oil remained in the rail car, when was it removed and transferred from the rail car to VTCU aboveground oil storage tanks within the Facility's building #37 tank farm(s) and for each transfer event, what was the amount/volume transferred).
3. Information, descriptions, calculations, and documents describing how much mineral oil, mineral oil/water mixtures, and mineral oil-effected solid wastes were recovered and removed from the Pocatello Creek and underground stormwater conveyance systems during the entire mineral oil spill response effort through approximately April 24, 2023, when the containment site was closed out in accord with discussions with regulatory agencies. Information should include but not be limited to the following items:
 - a. How much mineral oil was recovered and removed;
 - b. How determinations were made about the mineral oil content of recovered and removed mineral oil/water liquid waste mixtures; and
 - c. Whether any determinations were made on the volume/quantity of mineral oil content of the mineral oil-effected solid wastes disposed at the Clean Harbors Grassy Mountain, LLC disposal facility (Grantsville, UT).
4. Corrective action and countermeasures VTCU has taken, including a description of equipment installations, operational procedural revisions, etc. increasing the security of the Facility rail car transfer area to prevent vandalism and potential rail car discharges. Response should also identify the approximate specific dates each action/countermeasure was installed, implemented, mobilized, etc.
5. The cause of the rail car spill/discharge including a failure analysis of the VTCU rail car security, handling and transfer system(s) or subsystem(s) in which the failure occurred.

6. Whether the apparent alleged vandalism incident was reported to any third-party entity including but not limited to local law enforcement, the U.S. DOT/Federal Railroad Administration, any VTCU insurance company, Union Pacific Railroad, the building #37 property owner, Titan Center, etc. and if so, produce copies of the documentation submitted.
7. Existing security and vandalism preventative measures that pre-existed the November 2, 2022, rail car spill/discharge incident, especially at and near the Facility rail car transfer area.
8. Additional security and vandalism preventive measures VTCU has taken or contemplated to minimize the possibility of recurrence. Response should also identify the approximate specific dates each additional preventative measure(s) was installed, implemented, mobilized, etc.

The request for information in this letter is made under the authority of Sections 308 and 311(m) of the CWA, 33 U.S.C. §§ 1318 and 1321(m). In accordance with the provisions of 40 C.F.R. § 2.203(b), you may assert a business confidentiality claim covering part or all the information submitted by clearly identifying it as “confidential.” If no such claim accompanies the information when it is received by the EPA, it may be made available to the public without further notice.

If Virginia Transformer Corporation intends to send large files (email content greater than 25 MB), please notify EPA. EPA can accommodate these exchanges. Otherwise, please send your response letter and responsive documents via email to:

Kate Spaulding
Compliance Officer
U.S. Environmental Protection Agency
spaulding.kate@epa.gov

I strongly encourage you to continue your efforts to maintain full knowledge of statutory and regulatory requirements and to respond appropriately to ensure compliance. Notwithstanding your response to this letter, EPA retains all rights to pursue enforcement actions to address these and any other violations. If you have any questions concerning this matter, please do not hesitate to contact Kate Spaulding, of my staff, at spaulding.kate@epa.gov or (206) 553-5429.

Sincerely,

Jeff KenKnight, Chief
Water Enforcement and Field Branch

cc: Mr. Troy G. Smith
Wastewater Compliance Bureau Chief
Idaho Department of Environmental Quality