

L & K Industries, Inc. and Terry Brenneman COA

Degree of Severity	Para A	Para B	Para C	Para D	Para E	Para F	Para	Para	Para	Para	TOTAL
Severe (\$12500-\$25000)											
Moderate (\$5000-\$12500)											
Low (\$1000-\$5000)	1,000.00	1,000.00	1,000.00	12,500.00	1,000.00	1,000.00					
Costs To Commonwealth	7,700.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Savings To Violator	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Degree of Willfulness											
Willful (\$12500-\$25000)											
Reckless (\$5000-12500)											
Negligent (\$500-\$5000)	5,000.00	5,000.00	5,000.00	12,500.00	5,000.00	5,000.00					
Accidental (None)											
Promptness of Reporting	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
SUBTOTAL	13,700.00	6,000.00	6,000.00	25,000.00	6,000.00	6,000.00	0.00	0.00	0.00	0.00	62,700.00
Past History (5% per viol)	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
TOTAL	13,700.00	6,000.00	6,000.00	25,000.00	6,000.00	6,000.00	0.00	0.00	0.00	0.00	62,700.00

Stature and/or Regulatory Violation

Description

Date

- A) Section 610(9) of SWMMA Failure to comply with paragraph 2 of August 2002 Order (cease transport of ties and poles).
- B) Section 610(9) of SWMMA Remove all wastes from Clear View Farms site by 2/15/2004 per paragraph 4 of August 2002 Order.
- C) Section 610(1) of SWMMA Disposal of railroad ties, cut-offs of utility poles and mulched ties and poles at Tub Mill Farms.
- D) Section 610(2) of the SWMMA Operating a processing and transfer facility for waste railroad ties and utility poles.
- E) Section 610(6) of the SWMMA Transporting or permitting the transport of waste RR ties and utility poles to an unpermitted facility.
- F) Section 610(9) of SWMMA Failure to comply with paragraphs 1.c. and 2.c. of the 12/20/11 Order (permissions letters).

6/3/2004  
2/26/2004  
3/18/2005  
1 day  
1 day  
14 days

1/15/2012 - 1/29/2012



# pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Greensburg District Office

## NOTICE OF VIOLATION

March 8, 2012

CERTIFIED MAIL No. 7011 0110 0001 3539 1142

Terry L. Brenneman  
120 Post Office Street  
Boynton, PA 15532

RE: Clearview Farms  
Tax Parcel ID No. S14-007-046-00 (Tub Mill Site)  
Elk Lick Township, Somerset County

Dear Mr. Brenneman:

On December 15, 2011, the Department hand delivered an administrative order to you requiring among other things the cessation of the acceptance and processing of solid waste, specifically railroad ties and utility poles at the Clear View Farms property and the Tub Mill Site.

Paragraphs No. 1.c and 2.c. of the order required that within fifteen (15) days of receipt of the order, you were to provide written notice to the current owner of the Clear View Farms Site and the Tub Mill Site seeking permission to enter the sites to comply with the requirements of the order, and within twenty (20) days of receipt of the order, you were to provide the Department with proof of your delivery of these notices.

Paragraphs 1.d. and 2.d. of the order required that within thirty-five (35) days of receipt of the order, you were to identify in writing to the Department a permitted disposal facility that can and will accept the solid waste from the Clear View Farms site and Tub Mill Site, respectively.

As of March 7, 2012, you have not complied with Paragraphs 1.c., 2.c., 1.d., and 2.d. of the order and as a result, the Department of Environmental Protection (DEP) has determined that you are in violation of Section 610(9) of the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, 35 P.S. § 6018.610(9).

You are hereby notified of both the existence of the violations as well as the need to provide for prompt correction. Failure to correct the violations may result in legal proceedings under the provisions of the solid Waste Management Act. Under the Act, each day of the violation may be considered a distinct and separate offense.

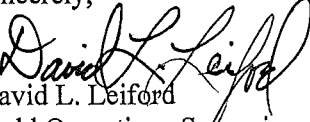
Terry L. Brenneman  
Notice of Violation  
March 8, 2012

Page Two

This Notice of Violation is neither an order nor any final action of the Department of Environmental Protection. It neither imposes nor waives any enforcement action available to the Department under any of its statutes. If the Department determines that an enforcement action is appropriate, you will be notified of the action.

If you have any questions about this letter, please contact me at 724-925-5432

Sincerely,

  
David L. Leiford  
Field Operations Supervisor  
Bureau of Waste Management

DLL:mes

cc: Region  
Chron

Terry L. Brenneman  
Notice of Violation  
March 8, 2012

bcc: M. Forbeck  
S. Swarm  
R. Watling – OCC  
M. Plaininsek  
D. Leiford



# pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Greensburg District Office

## NOTICE OF VIOLATION

March 8, 2012

CERTIFIED MAIL NO.: 7011 0110 0001 3539 1135

Ronald D. and Nancy A. Brenneman  
1025 Oakdale Road  
Salisbury, PA 15558

Inspection ID: 2050720

VIOL ID: 634 319

CPA En ID: 281540L

RE: Clearview Farms  
Elk Lick Township, Somerset County

Dear Mr. and Mrs. Brenneman:

On November 10, 2011, the Department hand delivered an administrative order to you requiring among other things the cessation of the acceptance and processing of solid waste, specifically railroad ties and utility poles at the Clear View Farms property. Paragraph 3 of the order also required that within thirty (30) days of receipt of the order, you were to provide the Department by written correspondence a report identifying a permitted disposal facility that can and will accept the solid waste from the Clear View Farms Site. Additionally, Paragraph No. 4 of the order required that within sixty (60) days of receipt of the order, you were to remove no less than eighty (80) tons of solid waste from the Clear View Farms Site. As of March 7, 2012, you have not complied with paragraphs 3 and 4 of the order and as a result, the Department of Environmental Protection (DEP) has determined that you are in violation of Section 610(9) of the Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, 35 P.S. § 6018.610(9).

You are hereby notified of both the existence of the violations as well as the need to provide for prompt correction. Failure to correct the violations may result in legal proceedings under the provisions of the Solid Waste Management Act. Under the Act, each day of the violation may be considered a distinct and separate offense.

This Notice of Violation is neither an order nor any final action of the Department of Environmental Protection. It neither imposes nor waives any enforcement action available to the Department under any of its statutes. If the Department determines that an enforcement action is appropriate, you will be notified of the action.

If you have any questions about this letter, please contact me at 724-925-5432.

Sincerely,

David L. Leiford  
Field Operations Supervisor  
Bureau of Waste Management

cc: Region  
Chron



# pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
GREENSBURG DISTRICT MINING OFFICE

March 23, 2012

**CERTIFIED MAIL NO. 7011 0110 0001 3539 1074**

Ronald D and Nancy A. Brenneman  
1025 Oakdale Road  
Salisbury, PA 15558

Re: Consent Penalty Assessment  
Elk Lick Township  
Somerset County  
ENF ID No. 281540L

Dear Mr. and Mrs. Brenneman:

Enclosed is a Civil Penalty Assessment of the Department of Environmental Protection for violations of the Solid Waste Management Act and the rules and regulations promulgated thereunder which occurred at the Clear View Farms Site on the dates specified therein.

If you have any questions regarding this matter, please feel free to contact me at 724.925.5432.

Sincerely,

David L. Leiford  
Field Operations Supervisor  
Bureau of Waste Management

Enclosure

bcc: Regional - w/enclosure  
Chron - w/enclosure  
M. Forbeck - w/enclosure  
S. Swarm - w/enclosure  
J. Herman/OCC - w/enclosure  
R. Watling/OCC - w/enclosure  
M. Planinsek - w/enclosure  
D. Leiford - w/enclosure

DLL:few

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

IN THE MATTER OF:

Ronald D. and Nancy A. Brenneman :  
Elk Lick Township : Solid Waste Management Act  
Somerset County :  
Enf. ID No. 281540L :

**CIVIL PENALTY ASSESSMENT**

NOW, this 22 day of March, 2012, the Commonwealth of Pennsylvania, Department of Environmental Protection has found and determined the following:

*Parties*

- A. The Department is the agency with the duty and authority to administer and enforce the Solid Waste Management Act, the Act of July 7, 1980, P.L. 380, *as amended*, 35 P.S. §§ 6018.101 – 6018.1003 (“SWMA”); and the rules and regulations promulgated thereunder.
- B. Ronald D. and Nancy A. Brenneman (jointly and severally, the “Brennemans”) are the owners of Clear View Farms, a 307.8 acre parcel of ground located at 1025 Oakdale Road, Salisbury, PA 15558, and further identified as Tax Parcel ID No. S14-007-046-00, (“Clear View Farms Site”).
- C. L&K Industries, Inc. (“L&K”) is a Pennsylvania corporation and maintains a business address at 9325 Mason Dixon Highway, Salisbury, PA 15558. Terry L. Brenneman is the President of L&K which among other things procures and processes used railroad ties and utility poles. L&K and Terry Brenneman have operated and currently operate a facility on a parcel of ground located on the Clear View Farms Site with the knowledge and consent of the Brennemans. Terry Brenneman is the Brennemans’ son.
- D. On November 10, 2011, the Department delivered an Administrative Order (“November 2011 Order”) to the Brennemans. The Brennemans have filed an appeal of the November 2011 Order with the Environmental Hearing Board, but have not sought or obtained a superseadeas of the order. Pursuant to Section 602 of the SWMA, an appeal of an order to the Environmental Hearing Board shall not act as a supersedeas. 35 P.S. § 6018.602.

*Requirement to Comply with Corrective Actions*

- E. Pursuant to Paragraph No. 2 of the November 2011 Order, the Brennemans were required to, *inter alia*, take the following action within the time period set forth therein: “Within thirty (30) days of receipt of this Order, do the following: “(a) identify in writing to the Department a permitted

disposal facility that can and will accept the solid waste from the Clear View Farms Site including but not limited to previously used railroad ties and utility poles and scraps and/or cuttings therefrom.”

F. Pursuant to Paragraph No. 4 of the November 2011 Order, the Brennemens were required to, *inter alia*, take the following action within the time period set forth therein: “Within sixty (60) days of receipt of this Order, remove no less than eighty (80) tons of solid waste from the Clear View Farms Site.”

*Failure to Comply*

G. The Brennemens have failed to identify in writing to the Department within thirty (30) days of receipt of the November 2011 Order a permitted disposal facility that can and will accept the solid waste from the Clear View Farms Site, in violation of the November 2011 Order, and Sections 603 and 610 of the SWMA, 35 P.S. §§ 6018.603 and 6018.610. On March 8, 2012, the Department sent the Brennemens via certified mail a Notice of Violation regarding this violation.

H. The Brennemens have failed to remove no less than eighty (80) tons of solid waste from the Clear View Farms Site within sixty (60) days of receipt of the November 2011 Order, in violation of the November 2011 Order, and Sections 603 and 610 of the SWMA, 35 P.S. §§ 6018.603 and 6018.610. On March 8, 2012, the Department sent the Brennemens via certified mail a Notice of Violation regarding this violation.

I. The violations described in the preceding paragraphs constitute unlawful conduct under Sections 603 and 610(2), (4) and (9) of the SWMA, 35 P.S. §§ 6018.603, 6018.610(2), 6018.610(4), and 6018.610(9); and subject the Brennemens to a claim for civil penalties under Section 605 of the SWMA, 35 P.S. § 6018.605.

J. Section 605 of the SWMA, 35 P.S. § 6018.605, provides that the Department may assess a civil penalty of up to TWENTY FIVE THOUSAND DOLLARS (\$ 25,000.00) per day for each violation of the SWMA.

NOW, THEREFORE, pursuant to Section 605 of the SWMA, 35 P.S. § 6018.605, the Department hereby assesses a civil penalty of THREE THOUSAND DOLLARS (\$ 3,000.00) against Ronald D. and Nancy A. Brenneman, jointly and severally, for the violations set forth above occurring on and between January 10, 2012 and February 8, 2012.

Said civil penalty shall be submitted to the Department within thirty (30) days of receipt of this Civil Penalty Assessment in the form of a certified check in the amount of THREE THOUSAND DOLLARS (\$ 3,000.00) made payable to the “Commonwealth of Pennsylvania, Solid Waste Abatement Fund” and mailed to:



Michael G. Forbeck  
Regional Manager, Waste Management  
Pennsylvania Department of Environmental Protection  
400 Waterfront Drive  
Pittsburgh, PA 15222-4745

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa. C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, 1-800-654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of such action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD.

IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD (717-787-3483) FOR MORE INFORMATION.

FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION:



Michael G. Forbeck  
Regional Manager  
Waste Management  
Southwest Region – Field Operations

MGF:DLL: