



State of Ohio Environmental Protection Agency

Northeast District Office

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Twinsburg, Ohio 44087

TELE: (330) 963-1200 FAX: (330) 487-0769
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Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korieski, Director

October 19, 2009

**RE: PORTAGE LANDFILL &
DEVELOPMENT COMPANY
NOTICE OF VIOLATION**

CERTIFIED MAIL

Waldo Sober
2908 Tallmadge Road
Ravenna, OH 44266

Dear Mr. Sober:

On October 1, 2009, I (Jarnal Singh), representing the Ohio Environmental Protection Agency (Ohio EPA), accompanied by Adam Harris of the Portage County Health Department visited the Portage Landfill & Development Co. (Portage Landfill) site located at 2898 Tallmadge Road, in Portage County, Ohio. The purpose for our visit was to determine if additional material had been brought onto the landfill and to determine if soils designated for properly closing the landfill still remain available on land located adjacent to the landfill.

Our inspection of the landfill revealed that some additional loads of soil and clean hard fill had been dumped on the surface of the landfill, adjacent to the pile of material that existed when we last met with you at the site on July 26, 2009. We also observed that the majority of soils reserved for cover and closure activities located in Primary #1 and Primary # 2 areas (see attached Appendix B map) situated on the adjoining property have been removed and are no longer available for use by Ohio EPA for closure activities.

As you are aware, **State of Ohio v. Portage Landfill and Development Company, et al**, Consent Order filed at the Portage County Common Pleas Court on March 5, 1998 (March 5, 1998 Consent Order), states in part, that, *"Defendants Sober and Portage and Sober Trusts shall make available to the Ohio EPA, or its representatives, soil that meets or exceeds the requirements set forth in OAC Rule 3745-27-09(F)(4), as effective July 29, 1976, from the land set forth in Appendix B attached to this Consent Order...Arrangements to excavate the soil for the Portage Landfill covering shall be made between Supervisor, Division of Solid and Infectious Waste Management, Northeast District Office, or his successor and Robert McGregor, Sober Trusts' representative."*

Thus, removing and using soils designated for closure activities from the areas marked as Primary #1 and Primary #2, without obtaining approval or making prior arrangements with Ohio EPA, is a violation of the requirements set forth in the March 5, 1998 Consent Order. Removal of soils from areas identified in Appendix B of the March 5, 1998 Consent Order must immediately cease.

Also, conducting filling and grading activities on the landfill without authorization from Ohio EPA is a violation of Ohio Administrative Code (OAC) 3745-27-13(A).

Waldo Sober
October 19, 2009
Page 2

OAC 3745-27-13(A) states, "No person shall, without authorization from the director, engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility or solid waste facility was operated. Any person proposing to engage in these activities on land where a hazardous waste facility or solid waste facility was operated shall comply with the requirements of this rule."

Grading and filling activities being conducted on the Portage Landfill property have not been authorized pursuant to OAC 3745-27-13. You are therefore in violation of OAC 3745-27-13 for failing to obtain authorization prior to engaging in filling and grading on the landfill property. All such activities must immediately cease until authorization is obtained from Ohio EPA.

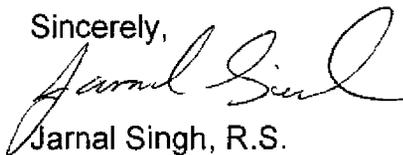
Removal of soils from areas identified in Appendix B of the March 5, 1998, Consent Order must immediately cease. All filling and grading activities being conducted on the landfill must also immediately cease.

Please provide a written response, within 7 days of your receipt of this letter, indicating what actions have been or are being taken to address the above cited violations. Your response letter should also accurately quantify the amount of soil (by volume and area) that has been removed from Primary areas A & B of Appendix B of the March 5, 1998, Consent Order, and should also provide an accurate estimate of the amount of soil that remains available in the Appendix B areas for proper closure of the landfill.

If you have any questions concerning this notice of violation, or wish to meet to discuss this property, please contact me at (330) 963-1276.

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release the Entity from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water or Comprehensive Environmental Response, Compensation, and Liability Acts for remedying conditions resulting from any release of contaminants to the environment.

Sincerely,



Jarnal Singh, R.S.
Environmental Specialist
Division of Solid and Infectious Waste Management

JS:cl

cc: Carl Mussenden, DSIWM, CO DuWayne Porter, Commissioner, Portage CO HD
Tim Kern & Kate Barcalow, AAG File: [Sowers/LAND/Portage LF/COR/67]