



State of Ohio Environmental Protection Agency

Northeast District Office

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Ted Strickland, Governor
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October 22, 2007

RE: **HARVARD REFUSE, INC.
NOTICE OF VIOLATION**

Mr. Stanley Lojek
Harvard Refuse, inc.
7720 Harvard Avenue
Cleveland, Ohio 44105

Dear Mr. Lojek:

This letter provides a notice of violations and comments identified by Ohio Environmental Protection Agency (Ohio EPA) during an inspection on September 12, 2007, at Harvard Refuse, Inc. (HRI) located at 7720 Harvard Avenue, Cleveland, in Cuyahoga County. HRI includes a closed solid waste landfill in three separate areas, two closed C&DD landfills, and a closed exempt fill area. All of the fill areas are along both sides of Mill Creek.

The HRI property has a jurisdictional dividing line at approximately the Conrail railroad tracks. The north and middle sections of the solid waste landfill are inspected by Cleveland Department of Public Health (CDPH). The south section of the landfill is inspected by Cuyahoga County Board of Health (CCBH). The inspection on September 12, 2007 included only the south area of the solid waste landfill.

Present were Bogdan Korybko, representing HRI, Dane Tussel and Colin Johnson, representing CCBH, and I, representing Ohio EPA, Division of Solid and Infectious Waste Management.

The inspection included walking in Mill Creek along the concrete block wall, and driving to the top of the south area landfill. We also walked on the northwest part of the slope, near the top, to see the leachate seeps.

Violations

1. Attending the walk in Mill Creek were Dane Tussel, Colin Johnson and I. We observed numerous leachate outbreaks and/or seeps on the lower landfill slope flowing into Mill Creek. Because leachate from the landfill is entering Mill Creek, HRI is in violation of OAC 3745-27-14(A)(2), OAC 3745-27-14(A)(3), ORC 6111.04(A), and OAC 3745-1-04, listed below.
 - A. **Ohio Administrative Code (OAC) 3745-27-14(A)(2)** which states in part, *“Post-closure care activities for a sanitary landfill facility shall include, but are not limited to the following . . . maintaining the integrity and effectiveness of the cap system, including making repairs*

to the cap system as necessary to correct the effects of settling, dead vegetation, subsidence, ponding, erosion, leachate outbreaks, or other events, and preventing run-on and runoff from eroding or otherwise damaging the cap system."

B. OAC 3745-27-14(A)(3) which states in part, *"Post-closure care activities for a sanitary landfill facility shall include, but are not limited to the following . . . repairing any leachate outbreaks detected at the sanitary landfill facility by doing the following:*

(a) *Contain and properly manage the leachate at the sanitary landfill facility.*

(b) *If necessary, collect, treat, and dispose of the leachate, including, if necessary, following the contingency plan for leachate storage and disposal prepared pursuant to rule 3745-27-19 of the Administrative Code.*

(c) *Take action to minimize, control, or eliminate the conditions which contribute to the production of leachate."*

C. Ohio Revised Code (ORC) 6111.04(A) which states in part,

"(1) No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.

(2) Such an action prohibited under division (A)(1) of this section is hereby declared to be a public nuisance.

Divisions (A)(1) and (2) of this section do not apply if the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in sections 6111.01 to 6111.08 of the Revised Code or if the person's application for renewal of such a permit is pending."

D. OAC 3745-1-04 regarding criteria applicable to all waters, which states in part, *"The following general water quality criteria shall apply to all surface waters of the state including mixing zones. To every extent practical and possible as determined by the director, these waters shall be:*

- (A) *Free from suspended solids or other substances that enter the waters as a result of human activity and that will settle to form putrescent or otherwise objectionable sludge deposits, or that will adversely affect aquatic life;*
- (B) *Free from floating debris, oil, scum and other floating materials entering the waters of the state as a result of human activity in amounts sufficient to be unsightly or cause degradation;*
- (C) *Free from materials entering the waters as a result of human activity producing color, odor or other conditions in such a degree as to create a nuisance;*
- (D) *Free from substances entering the waters as a result of human activity in concentrations that are toxic or harmful to human, animal or aquatic life and/or are rapidly lethal in the mixing zone;"*

2. During the creek walk, we observed that Mill Creek is surrounded by extremely steep slopes on both sides. The east bank is the slope of the solid waste landfill. The west bank contains fill materials including bricks, soil, small layers of solid waste, and some industrial waste. Erosion is occurring on both sides of the Mill Creek in the area near the landfill. Remediation of the east (landfill side) bank is addressed in the April 2001 Orders.

The west bank erosion is causing sediments, bricks, and fill material to enter Mill Creek. There were two areas on the west slope of Mill Creek where soil and fill materials had slumped or slid into Mill Creek. The two slumps are located near the north end of the concrete block wall. This area also had several large chunks of rust-colored industrial waste in the creek. It appeared that the chunks of waste had tumbled down from the slump areas. HRI is in violation of **ORC 6111.04(A)**, and **OAC 3745-1-04**, described above, for failing to stabilize the creek bank and for allowing the slumped materials to enter the creek. Due to the steepness of the slope and lack of stabilization, it is likely that erosion and slumping will continue until HRI takes action to prevent the continued erosion.

HRI must repair and stabilize the steep banks of Mill Creek to prevent further slumping of materials into the creek. Any fallen waste or CDD must be removed from the creek. Please describe what interim and permanent measures will be utilized to comply with ORC 6111.04 and OAC 3745-1-04.

3. On the northwest part of the landfill slope, near the top, we observed leachate seeps. This area has had chronic leachate seeps. The seep area is surrounded by Common Reed Grass (*Phragmites australis*). Although HRI has tried to recap this area, the leachate seeps continue. HRI has failed to control the leachate seeps in this area and is in violation of OAC 3745-27-14(A)(2) and OAC 3745-27-14(A)(3), listed above.

Additional unresolved violations

4. Regarding the entire solid waste landfill, HRI has not complied with **Director's Final Findings and Orders, issued on April 16, 2001** (April 2001 Orders). The April 2001 Orders address persistent violations regarding cap erosion, leachate outbreaks entering Mill Creek, and explosive gas migration. The April 2001 Orders give the following order of events that HRI must follow to resolve the violations: 1) HRI submits a Site Investigation Report; 2) after receiving Ohio EPA's concurrence on the Site Investigation Report, HRI submits a Preferred Method Work Plan; 3) after receiving Ohio EPA's concurrence on the Preferred Method Work Plan, HRI submits a Conceptual Design Plan; 4) after receiving Ohio EPA's concurrence, HRI begins remedial activities. HRI has not submitted a Site Investigation Report with which Ohio EPA can concur, in violation of April 2001 Orders.
5. HRI has not complied with the April 2001 Orders. Therefore, HRI is also in violation of **ORC 3734.11(A)**. This law states, "*No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3734.13 of the Revised Code.*" Harvard has not complied with the April 2001 Orders regarding the Site Investigation Report.
6. **Explosive Gas Monitoring Plan (EGMP) authorization, dated August 4, 2003.**

Condition 6 of the EGMP authorization states, "*Within 60 days of implementation of the explosive gas monitoring plan, HRI shall submit the certification report for construction of the explosive gas monitoring system.*"

HRI is in violation of **Condition 5 of the EGMP authorization** because Ohio PA has not received geologic cross-sections for those perimeters of the landfill property which face occupied structures. Condition 5 states, "*HRI shall submit geologic cross-sections for those perimeters of the landfill property which face occupied structures. HRI shall submit this information with the certification report for construction of the explosive gas monitoring system. Each cross-section shall show the location of the borings used to develop the cross-section. The submittal shall include the boring logs of those wells used in the development of the cross-sections.*"

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To achieve compliance, HRI must submit the geologic cross-sections and boring logs as described above.

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 Harvard Refuse, Inc. 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.

Please provide a written response to the above violations within 14 days of receipt of this letter. Please include a schedule and description of compliance activities. Should you have any questions, please call me at (330) 963-1286.

Sincerely,



Dave Dysle
Environmental Specialist
Division of Solid and Infectious Waste Management

DD:cl

cc: Melinda Berry, DSIWM, CO
Dan Bogoevski, DSW, NEDO
Nicholas Bryan, AGO
Martin Wargo, USACE, Buffalo District, NY
Theresa Hudson, USACE, Buffalo District, Orwell Field Office, OH
Dane Tussel, Cuyahoga County Board of Health
File: [Sowers/LAND/Harvard Refuse/COR/18]