OhioEPA

State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.
Twinsburg, Ohio 44087

TELE: (330) 963-1200 **FAX:** (330) 487-0769
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

March 30, 2007

RE: COMPREHENSIVE INSPECTION
TWL PENN-OHIO C&DD LANDFILL

Mr. Tim Clark
Penn-Ohio C&DD Landfill
7555 North Street
Negley, Ohio 44441

Dear Mr. Clark:

A comprehensive inspection of the Total Waste Logistics - Penn-Ohio Facility C&DD Landfill (Penn-Ohio), located approximately 2000 feet north of the intersection of State Routes 154 and 170 in Negley, Columbiana County, was conducted on the following dates:

- On March 22, 2007, Katharina Snyder and Scott Winkler, representing Ohio EPA, conducted an inspection of the facility's unloading zone and working face. Weather conditions on this occasion were windy with intermittent rain showers, and a temperature of approximately 65° F. Tim Clark, representing Penn-Ohio, accompanied Ohio EPA during this inspection.

- On March 23, 2007, Jerry Weber, representing the Ohio Environmental Protection Agency (Ohio EPA), conducted an inspection of the facility's daily logs and records, the facility access road, and observed the rail transfer area. Weather conditions on this occasion were overcast and rainy with a temperature of approximately 60° F. Tim Clark, representing Penn-Ohio, provided Ohio EPA access to facility records during this inspection.

The purpose of the inspection was to determine compliance with Ohio Revised Code (ORC) Sections 3714. and 3734., and Ohio Administrative Code (OAC) Chapters 3745-400 and 3745-27. The following violations were identified during the inspection:

1. **Solid Waste Disposal:** During the March 22, 2007, inspection prohibited waste was observed disposed at this facility. Prohibited solid waste disposed in an area next to the facility working face, measuring approximately 60 feet by 60 feet, included, but was not limited to the following: articles of clothing, beverage containers, papers, toys, and cushions and pillows. Disposed solid wastes were also observed in the working face, including the same types of prohibited solid waste.

   Penn-Ohio is in violation because it was allowing the disposal of solid waste in its facility. The above referenced solid wastes were observed disposed both in the facility's working face, and in an area adjacent to the facility working face, where disposal had occurred on a previous day or days. The owner or operator is not making

sufficient effort to remove all prohibited wastes inthe facility unloading zone. Penn-Ohio's disposal of solid waste at its C&DD facility is a violation of the following:

- **ORC Section 3714.021(B):** *"The owner or operator of a construction and demolition debris facility that is licensed under this chapter shall attempt to remove all solid wastes from construction and demolition debris prior to the disposal of the construction and demolition debris on the working face of the facility. Except as otherwise provided in this division, the existence of solid wastes on the working face of a construction and demolition debris facility does not constitute a violation of this chapter and rules adopted under it if both of the following apply: (1) The wastes constitute not more than two cubic yards per one thousand cubic yards of construction and demolition debris or four cubic yards per one thousand tons of construction and demolition debris disposed of at the facility on the preceding full business day as determined by using the amount of disposal fees collected under section 3714.07 of the Revised Code for wastes disposed of at the facility on that preceding full business day. (2) The owner or operator or the employees of the facility remove the solid wastes from the working face of the facility."*

- **OAC Rule 3745-400-11(F):** *"The owner or operator shall dispose of only construction and demolition debris as defined in rule 3745-400-01 of the Administrative Code, except as specified in this rule."*

  For the purpose of this rule, OAC 3745-400-01 states, *"'Construction and demolition debris' or 'debris' means those materials resulting from the alteration, construction, destruction, rehabilitation, or repair of any manmade physical structure, including, without limitation, houses, buildings, industrial or commercial facilities, or roadways. 'Construction and demolition debris' does not include materials identified as solid wastes, infectious wastes, or hazardous wastes pursuant to Chapter 3734. of the Revised Code and rules adopted under it..."*

- **OAC Rule 3745-400-11(F)(2):** *"The owner or operator of a facility shall not dispose of any solid wastes except as follows:*

  (a) *Packaging which results from the use of construction materials may be disposed if it is incidental to the load.*

  (b) *Tree stumps, trunks and clean branches exceeding 4 inches in diameter may be disposed...*

  (a) *Asbestos materials subject to NESHAP, 40 CFR Part 61, Subpart M, may be disposed of only if the necessary air pollution permits have been issued.*

- **OAC Rule 3745-400-11(F)(3):** *"The owner or operator shall deposit incoming loads of debris at a designated unloading zone where debris shall be inspected and all prohibited wastes shall be removed..."*

- **ORC Section 3734.03:** *"No person shall dispose of solid wastes by open burning or open dumping...No person shall dispose of treated or untreated infectious wastes by open burning or open dumping."*

- **OAC Rule 3745-27-05(C):** *"No person shall conduct, permit, or allow open dumping."*

In order to return to compliance with all applicable laws and rules, the owner or operator must remove all prohibited solid waste from this facility and dispose of it in a licensed solid waste disposal facility. During the inspection, facility personnel were removing prohibited solid waste from the working face, however, by virtue of the fact that these wastes were also present in areas outside the facility working face, it indicates that insufficient effort is being made to remove prohibited solid wastes in the facility unloading zone. In order to prevent a similar violation in the future, the owner or operator of Penn-Ohio must remove all prohibited solid waste in the facility unloading zone, or make a determination that incoming loads of waste contain too much solid waste to be removed, and reject such loads.

2. **Weekly Cover.** During the March 22, 2007, inspection, portions of the landfill where debris had not been placed for over one week contained exposed debris. The owner or operator was informed that no additional debris could be disposed, or weekly cover applied, until all solid waste was removed from the current working face and the previous working face area.

Penn-Ohio is in violation because it failed to cover all disposed combustible debris on a weekly basis. Failure to cover all disposed combustible debris on a weekly basis is a violation of the following:

a. **OAC Rule 3745-400-11(H)(1):** *"The owner or operator shall operate the facility in a manner that prevents fires by doing one of the following...Covering all disposed combustible debris on a weekly basis with soil, clean hard fill, or other material which is noncombustible. For the purposes of this rule, covering means to apply noncombustible material in a manner thatcombustible debris is not visible."*

In order to return to compliance with all applicable laws and rules, the owner or operator must cover all disposed combustible debris on a weekly basis with soil.

3. **Surface Water Management:** During the inspection on March 23, 2007, Ohio EPA documented sediment laden water running off the rail transfer area and into a ditch leaving the facility. Water was not observed coming into contact with waste in this area.

   Penn-Ohio is in violation because it was failing to properly manage surface water at the facility. In addition to the violations which will have been previously detailed in the Ohio EPA Division of Surface Water's (DSW) Notice of Violation, Penn-Ohio's failure to properly manage surface water at its C&DD facility is at a minimum a violation of the following:

   a. **OAC Rule 3745-400-11(B)(16):** *"The owner or operator shall not cause water pollution."*

   In order to return to compliance with this rule, the owner or operator must immediately correct the conditions which were observed during this inspection, as well as any violations which have not been resolved with respect to DSW's inspections previously at the facility.

The following observations were made during this inspection:

March 22, 2007

1. The working face measured approximately 150 feet by 50 to 70 feet.

2. The unloading zone was clearly designated by four orange cones.

3. Two pickers were going through incoming loads of debris.

4. One load of incoming debris was observed as it was tipped into the facility unloading zone. The debris was identifiable, but the owner or operator was cautioned that loads should definitely not contain more fines than what was observed in that load.

5. The owner or operator was asked to keep an eye on blowing litter. There was no violation during this inspection since there was not too much litter and none of it had left the site.

March 23, 2007

1. The facility was not in operation. No railcars were available at the facility to unload.

2. No dragout of mud onto State Route 170 was observed.

3. No odors were detected coming from the landfill.

4. 259 cubic yards of debris was disposed at the facility on March 19, 2007. Approximately one quarter of a cubic yard of prohibited solid waste was reportedly removed from the facility working face on March 22, 2007. The amount of prohibited solid waste removed from the facility working face on March 22, 2007, did not constitute a violation in accordance with the current laws regarding the removal of prohibited solid waste from the working face of a C&DD landfill.

The owner or operator of Penn-Ohio must immediately take all necessary measures to return to compliance with Ohio's solid waste and C&DD laws and rules. Please provide written notification to me within 15 days of receiving this letter which documents how the violations listed above have been corrected, and what measures will be implemented in the future to prevent any such recurrence of these violations.

Failure to correct the above violations and operate this facility in accordance with all applicable state laws and rules could result in escalated enforcement action being taken against the owner or operator of this facility by Ohio EPA.

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 owner or operator of Penn-Ohio, or others, 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 remedying conditions resulting from any release of contaminants to the environment.

If you have any questions regarding this letter, please feel free to contact me at (330) 963-1274, or preferably, e-mail me at "jerry.weber@epa.state.oh.us."

Sincerely,

Jerry W. Weber, R. S.
Environmental Specialist
Division of Solid and Infectious
Waste Management

Katharina Snyder
Environmental Specialist
Division of Solid and Infectious
Waste Management

JWW:cl

cc: Dan Bogoevski, DSW-NEDO
Robert Morehead, Columbiana County Health Department
File: [Tukel/CONS/Elkrun Industries/COR/15]