



State of Ohio Environmental Protection Agency

Northeast District Office

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Ted Strickland, Governor
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May 15, 2007

**RE: NOTICE OF VIOLATION
TOTAL WASTE LOGISTICS
PENN-OHIO FACILITY C&DD LANDFILL
PARTIAL INSPECTION**

CERTIFIED MAIL

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

Dear Mr. Clark:

On May 10, 2007, I, representing the Ohio Environmental Protection Agency (Ohio EPA), conducted a partial 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, Ohio. The purpose of the inspection was to determine compliance with Ohio Revised Code (ORC) 3714, and Ohio Administrative Code (OAC) 3745-400, and ORC 3734, and OAC 3745-27. Weather conditions were sunny, hot and humid, with a temperature of approximately 75°.

Jarnal Singh and Dale Warner, representing Ohio EPA, and Tim Clark, representing the facility owner or operator accompanied me during the inspection.

During this inspection Ohio EPA inspected the facility working face, unloading zone, and areas of former debris disposal in the Active Licensed Disposal Area, observed the access roads, attempted to determine the presence of hydrogen sulfide gas, and attempted to determine if weekly cover was being applied as required. The facility was not accepting debris for disposal during this inspection. A train derailment reportedly interrupted the flow of railcars into the facility. The following violations were identified during this inspection:

1. **Solid Waste Disposal:** During this inspection prohibited waste was observed disposed at this facility. The solid waste observed disposed at the facility working face was from, at a minimum, the previous day's operations. Prohibited solid waste disposed at this facility included, but was not limited to the following: scrap tires, articles of clothing, beverage containers, food wrappers and containers, shoes, furniture cushions, plastic nursery pots, toys, garden hoses, a basketball, detergent containers, a bed or folding cot, and large appliance. Some of the above solid wastes were also observed disposed over large areas where debris had previously been disposed, including buried in the access road leading over debris to the previous day's working face and protruding half buried from a side slope along that access road.

Solid waste was observed spread across the top of the current Active Licensed Disposal Area, in areas where debris is being unearthed and spread across the top of the landfill in what was described as an attempt to establish even grades prior to applying additional cover. Solid waste unearthed in these areas had been disposed approximately one or two years ago.

Penn-Ohio is in violation because it has allowed the disposal of solid waste in its facility. The owner or operator is not making sufficient effort to remove all prohibited wastes in the facility unloading zone, and that is making it impossible to remove the prohibited wastes from the facility's working face. Penn-Ohio's disposal of solid waste at its C&DD facility is a violation of the following:

- a. **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."*
- b. **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..."

- c. **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...*
- (c) *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."*
- d. **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..."*
- e. **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."*
- f. **OAC Rule 3745-27-05(C)**: *"No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code, and shall submit verification that the solid waste has been properly managed."*

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. The owner or operator must also provide evidence that the solid waste observed during this inspection was actually removed. During the inspection, the owner or operator dug out the bed which had been protruding half buried from a slope along the interior access road since at least the April 23, 2007, inspection. By virtue of the fact that the above documented wastes were present in such widespread areas and partially buried in some cases, 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.

The following photograph shows the bed or folding cot which was observed partially buried during the April 23, 2007, and which remained so at the time of this inspection:



2. **Weekly Cover.** During this inspection, exposed debris was observed in many areas of the facility's Active Licensed Disposal Area, including the exterior side slopes, the top of the landfill, and on interior slopes. Weekly cover had not been applied to the debris in these areas.

Penn-Ohio is in violation because it has 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 that combustible debris is not visible."*

In order to return to compliance with this rule, the owner or operator of Penn-Ohio must cover all disposed combustible debris on a weekly basis with soil, clean hard fill, or other material which is noncombustible such that combustible debris is not visible.

3. **Cliffing.** During this inspection debris was observed "cliffed" in various portions of the Active Licensed Disposal Area.

Penn-Ohio is in violation because it was placing debris into the working face without compacting the debris to the smallest practical volume, thus forming a cliff. Various side slopes formed by debris placement in the Active Licensed Disposal Area also did not appear to have been compacted during debris placement. Failure to spread debris evenly over the working face and compact it to the smallest practical volume is a violation of the following:

- a. **OAC Rule 3745-400-11(F)(3)(c)**: *"Once prohibited materials are removed, the owner or operator shall spread and compact the debris on the working face. When debris is deposited on the working face, it shall be spread evenly over the working face and compacted to the smallest practical volume."*
- b. **OAC Rule 3745-400-11(F)(3)(d)**: *"Cliffing is prohibited. For the purposes of this rule, cliffing is the formation of an edge or cliff by the placement of debris to the working face without compacting."*

In order to comply with the above rules, the owner or operator must immediately ensure that after removing all prohibited materials from incoming loads of debris in the unloading zone, debris is spread evenly over the working face and compacted to the smallest practical volume without cliffing.

The following photograph shows one area observed in the facility's Active Licensed Disposal Area where weekly cover was not applied, and where cliffing of waste was observed during the inspection conducted on May 10, 2007:



The following observations were made during this inspection:

1. No drag out of mud from the facility onto State Route 170 was observed.
2. During this inspection, strong odors smelling like rotten eggs, related to hydrogen sulfide gas, were emanating from the landfill. These odors were detected on the landfill while inspecting the facility working face, and areas where debris had been placed previously. The owner or operator of Penn-Ohio failed to apply weekly cover to the landfill, as described in violation number 2, above. Application of cover soil is an essential component in controlling the generation of leachate in a landfill, and also in controlling the escape of hydrogen sulfide gases from a landfill.
3. Several small leachate outbreaks were observed near the toe of the slope on the northwest side of Cell 1. Staining indicated that leachate had previously been running from the toe of the landfill slope into the ditch at the toe of debris placement, inside the access road.

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The nature of the violations observed during this inspection appears to indicate that the owner or operator of Penn-Ohio is either unable or unwilling to comply with Ohio's laws and rules relating to the disposal of solid waste and the requirement to apply weekly cover to all disposed debris on a weekly basis. 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. Penn-Ohio must take an aggressive approach to ensure that all prohibited solid waste is removed in the facility unloading zone prior to placing any debris onto the facility working face, and to ensure that all debris is covered with soil on a weekly basis.

Please provide written notification to me within 7 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 to operate this facility in accordance with all applicable state laws and rules may result in escalated enforcement actions 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

JWW:cl

cc: Jarnal Singh, DSIWM-NEDO
Dale Warner, DSIWM-SEDO
Robert Morehead, Columbiana County Health Department
File: [Tukel/CONS/Total Waste Logistics Penn-Ohio/COR/15]