



State of Ohio Environmental Protection Agency

Northeast District Office

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

January 12, 2010

RE: **BROOKLYN LANDFILL  
NOTICE OF VIOLATION**

**CERTIFIED MAIL**

Mr. Ed Ryan  
Acting Service Director  
City of Brooklyn  
7619 Memphis Avenue  
Brooklyn, Ohio 44144

Dear Mr. Ryan:

The purpose of this letter is to summarize our December 14, 2009 meeting concerning solid waste disposal at Brooklyn Landfill, located in Brooklyn, Cuyahoga County, Ohio. Present at the meeting were you and Mayor Rich Balbier, representing the City of Brooklyn (City), Dane Tussel and Colin Johnson, representing the Cuyahoga County Board of Health (CCBH), and Jennifer Kurko, Colum McKenna, and Judy Bowman, representing Ohio EPA. The City of Brooklyn requested the meeting to discuss its plans to address the Ohio Environmental Protection Agency's March 26, 2008 notice of deficiency identifying areas of potential overheight, and the September 29, 2008 notice of violation from the Cuyahoga County Board of Health for placing waste above the landfill's approved vertical limits. It became apparent during the meeting that the City has continued to fill the landfill's over-height areas, and may also have filled outside the horizontal limits of waste placement. Ohio EPA left the meeting agreeing to verify which of the facility's documents establishes its current, approved limits.

After a thorough review of the authorizing documents for Brooklyn Landfill, Ohio EPA has confirmed that Permit to Install (PTI) number 02-4542, approved September 6, 1990, contains the most current, approved limits of waste placement. The plan drawings in PTI Number 02-4542 show the horizontal limits of waste placement in plan view on drawing 15, and in cross section on drawings 20 through 26. The cross sections clearly show that outside of the horizontal limits of waste placement, soil was to be placed in order to bring the slopes up to final grades. The placement of soil in these areas is also described in the accompanying narrative.

During the December 14, 2009 meeting, the City and its consultant stated that they believed the waste limits extended to the cut-off wall, and that waste was being placed up to the cut-off wall and in the south east portion of the facility to the right of the entrance road. These areas are not permitted for waste placement. The boundaries identified as the

landfill's approved limits in several annual reports, a draft closure/post closure plan submittal, and other documents do not match the true limits of waste placement set by the approved PTI. Therefore, the City of Brooklyn is in violation of the following rules:

- 1) **OAC 3745-27-19(B)(2)** *"The owner or operator shall conduct all construction and operation at a sanitary landfill facility in strict compliance with the applicable authorizing document(s), including permit(s) to install..."*

The owner or operator is not in compliance with this rule. Based on the information submitted to Ohio EPA in the Brooklyn Landfill 2008 Annual Report, the limits of waste placement approved in Permit to Install (PTI) 02-4542 have been exceeded. Waste has been placed horizontally and vertically beyond the approved limits of waste placement.

- 2) **Permit to Install Number 02-4542** *"The proposed source shall be constructed in strict accordance with the plans and application submitted for this permit to the Director of the Ohio Environmental Protection Agency."*

The owner or operator is not in compliance with this rule. Based on the information submitted to Ohio EPA in the Brooklyn Landfill 2008 Annual Report, the limits of waste placement approved in Permit to Install (PTI) 02-4542 have been exceeded. Waste has been placed horizontally and vertically beyond the approved limits of waste placement.

- 3) **OAC 3745-27-02(A)** *"...no person shall establish or modify a solid waste facility...without obtaining a permit to install issued by the director."*, and, **OAC 3745-27-02(C)(1)(b)** *"For the purposes of this rule, "modify" or "modification means: a sanitary landfill facility undergoing...a substantial horizontal or vertical increase in the limits of waste placement as that term is defined in rule 3745-27-01 of the Administrative Code, including but not limited to those modifications specified in division (A)(2)(d) of section 3734.05 of the Revised Code."*

The owner or operator of the Brooklyn Landfill has modified the facility by substantially increasing the horizontal and vertical limits of waste placement without first obtaining a permit to install.

The existing grades of the landfill as of the date of the 2008 Annual Report map were above the approved waste limits. As of the 2008 Annual Report submitted to Ohio EPA on March 31, 2009, there was a very small amount of space remaining between the existing grades and the limits of waste placement. With the small amount of remaining airspace at the end of 2008, and the significant amount of waste which appears to have been placed

beyond the horizontal and vertical limits of waste placement, it is likely that all limits of waste placement have been reached. If so, the owner or operator was required to cease acceptance of waste and begin closure activities upon reaching final grade. If so, the owner may be in violation of the following rules:

- 4) **OAC 3745-27-11(C)(2)(b)** *"It is mandatory to begin closure activities for a noncontiguous unit(s) of a sanitary landfill facility upon the occurrence of any of the following:...All approved limits of solid waste placement for the noncontiguous unit(s) have been reached, as specified in the plan approval, operational report, approved permit(s) to install, or other authorization of the director."*
- 5) **OAC 3745-27-11(D)(1) and (2)** *"The owner or operator shall provide notice by certified mail or any other form of mail accompanied by a receipt of the anticipated date on which the sanitary landfill facility will cease to accept solid waste if final closure is or will be triggered for all unit(s) by paragraph (C)(1)(a) or (C)(2) of this rule. Such notice shall be provided not less than ninety days prior to the anticipated date on which solid waste will cease to be accepted...the owner or operator shall send a copy of the notice...to the following...the director."*
- 6) **OAC 3745-27-11(D)(3)** *"Concurrently with the submission of the notice required by paragraph (D)(1) of this rule, the owner or operator shall commence publishing at three week intervals, prominent notice of the anticipated date on which solid waste will cease to be accepted at the sanitary landfill facility. Such notice shall be published in the county in which the sanitary landfill facility is located and in any other county which has been a source of at least twenty-five per cent of the solid wastes deposited at the sanitary landfill facility over the previous twelve months of operation. Notice shall be provided to the director and the board of health having jurisdiction that affirms the notices have been published in accordance with this paragraph."*
- 7) **OAC 3745-27-11(F)** *"The owner or operator shall begin final closure activities...not later than seven days after any of the occurrences in paragraph (C) of this rule. Final closure activities for all unit(s) of a sanitary landfill facility shall include, at a minimum, the items specified in paragraphs (G) and (H) of this rule."*

The aforementioned violations are serious and Ohio EPA is considering its enforcement options. The City of Brooklyn must immediately take the necessary measures to return Brooklyn Landfill to compliance with Ohio's solid waste laws and rules, including ensuring that all waste is placed inside authorized limits. The City of Brooklyn must immediately cease placement of waste outside of the approved limits of solid waste. Due to the amount of waste which appears to have been placed over authorized limits, this may require

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removal of waste to an authorized disposal facility. In addition, based on the information submitted, it appears that closure activities should commence. We understand that the City is evaluating alternative disposal options.

Please reply to this notice of violation within seven days as to the actions being taken to return Brooklyn Landfill to compliance. If you have any questions regarding this letter, please do not hesitate to call Colum McKenna at (330) 963-1268 or Judy Bowman at (330) 963-1238.

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,



Colum McKenna  
Environmental Specialist  
Division of Solid and Infectious  
Waste Management



Judy Bowman  
Environmental Specialist  
Division of Solid and Infectious  
Waste Management

CM/JB/cl

cc: Bill Skowronski, Chief-NEDO  
Pam Allen, DSIWM-CO  
Bruce McCoy, DSIWM-CO  
Fanny Haritos, DSIWM-CO  
Mayor Rich Albier, City of Brooklyn  
Cuyahoga County Health Department  
File: [LAND/Brooklyn Landfill/COR/18]

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