Environmental Protection Agency
John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

June 16, 2011

RE: BROOKLYN LANDFILL NOTICE OF VIOLATION

CERTIFIED MAIL

Mr. John Verba
Acting Director of Public Service
City of Brooklyn
7619 Memphis Avenue
Brooklyn, Ohio 44144

Dear Mr. Verba:

On April 1, 2011, the Ohio Environmental Protection Agency (Ohio EPA) received the 2010 Annual Operational Report (2010 Annual Report) for the City of Brooklyn's sanitary landfill located in Cuyahoga County, Ohio. The report was prepared by Civil & Environmental Consultants, Inc. (CEC) on behalf of the City of Brooklyn (City).

Ohio EPA has conducted a review of the 2010 Annual Report and identified the following:

1) **OAC 3745-27-19(M)(1)** states "*The owner or operator of a sanitary landfill facility shall submit an "annual operational report" to the appropriate Ohio EPA district office and approved health department not later than the first day of April of each year. The "Annual Operational Report" shall include, at a minimum, the following information summarizing the previous calendar year's operations:*

   (1) A topographic map of all units of the sanitary landfill facility, certified by a professional skilled in the appropriate disciplines, with updated contour lines on the plan drawing containing information specified in rule 3745-27-06 of the Administrative Code. The scale and contour interval shall be consistent with the approved plans. At a minimum, the owner or operator shall identify the following:

   (a) The calendar year which the submittal represents.
   (b) The areal extent of each phase of construction.
   (c) The areal extent of closed areas of all units that have a final cap system or have transitional cover.
   (d) Areas that have intermediate cover.
   (e) The current working phase and unit.
   (f) The projected phase and unit for filling in the coming year.
   (g) Access roads and buildings.
   (h) On-site borrow areas and cover material stockpiles.
   (i) A comparison of the actual vertical and horizontal limits of emplaced waste to the vertical and horizontal limits of waste placement authorized in the applicable authorizing documents, including an approved permit to install, plan approval, or operational report. If emplaced waste exceeds the limits of vertical and horizontal waste placement authorized in the applicable authorizing documents, this

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comparison shall include a topographic map which delineates the areal extent of emplaced waste that exceeds approved limits specified in such authorizing documents. In addition, the topographic map shall contain notes that indicate the following information for waste exceeding authorized limits of waste placement: the maximum estimated volume, the maximum depth, and the average depth."

The City states, on page number 20 of the 2010 Annual Report,

"The topographic map presented is the most recent survey completed in 2008. Due to the issues between the Ohio EPA and the City of Brooklyn Landfill concerning the January 12, 2010 NOV, no additional survey has been completed of the facility. Pending resolution of the NOV, the topographic map and grades may be revised."

Regardless of the City's intention to consider revising the topographic map, the City is required to submit a topographic map with updated contour lines on the plan drawing. Specifically, the City is in violation of OAC Rule 3745-27-19(M)(1) for failing to submit a topographic map of all units of the sanitary landfill facility, certified by a professional skilled in the appropriate disciplines, with updated contour lines on the plan drawing containing information specified in rule 3745-27-06 of the Administrative Code.

2) **OAC 3745-27-19(M)(3)** states, *"The owner or operator of a sanitary landfill facility shall submit an "annual operational report" to the appropriate Ohio EPA district office and approved health department not later than the first day of April of each year. The "Annual Operational Report" shall include, at a minimum, the following information summarizing the previous calendar year's operations: (3) An estimate of the remaining sanitary landfill facility life, in years, and in terms of the remaining volume of the sanitary landfill facility to be filled, in cubic yards."*

The City identified, on page number 16, that the volume and facility information was determined using calculations from the 2008 Annual Report, not the previous calendar year's (2010) operations.

The City is in violation of OAC Rule 3745-27-19(M)(3) for failing to estimate of the remaining sanitary landfill facility life, in years, and in terms of the remaining volume of the sanitary landfill facility to be filled, in cubic yards based on the previous calendar year's operations.

The City must submit calculations estimating the remaining life of the facility based on the total remaining permitted airspace determined by comparing the existing limits of waste with the permitted limits of waste placement.

3) **OAC Rule 3745-27-19(M)(4)** states, *"[a] summary of the quantity of leachate collected for treatment and disposal on a monthly basis during the year, location of leachate treatment and disposal, and verification that the leachate management system is operating in accordance with this rule."*

OAC 3745-27-19(K)(3) states, "[t]*he owner or operator shall visually or physically inspect the collection pipe network of the leachate management system after placement of the initial lift of waste to ensure that crushing has not occurred and shall inspect the collection pipe network annually thereafter to ensure that clogging has not occurred."*

The City did not verify in the 2010 Annual Report that the leachate management system is operating in accordance with the rule and that the required annual inspection of the collection pipe network has been conducted, in violation of OAC Rules 3745-27-19(M)(4) and 3745-27-19(K)(3).

4) **OAC 3745-27-19(M)(6)** states, *"(6) The most recent updated closure cost estimate, post-closure cost estimate, and, if applicable, corrective measures cost estimate, adjusted for inflation and for any change in closure cost estimate, post-closure care cost estimate, or corrective measures cost estimate required by rules 3745-27-15, 3745-27-16, and 3745-27-18 of the Administrative Code"*

The 2010 Annual Report contains the closure and post-closure cost estimate based on the 2001 estimate adjusted each year for inflation. The annual report does not contain the itemized cost estimate for review by Ohio EPA to determine compliance with the current closure and post-closure requirements and costs. The cost estimate for closure must be based on the worst case closure. At this time, waste remains beyond the approved limits of waste placement. The cost for closure must include the cost of moving all waste within approved waste limits.

The 2010 Annual Report states that an amended 2010 financial assurance instrument was not submitted during 2010. The City is in violation of OAC Rule 3745-27-19(M)(6) for failing to submit most recent closure cost and post-closure cost estimates.

5) **Permit to Install (PTI) # 02-4542** states, *"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."*

6) **OAC Rule 3745-27-02(A)** states, *"...no person shall establish or modify a solid waste facility...without obtaining a permit to install issued by the director."*

OAC Rule 3745-27-02(C)(1)(b) states, *"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."*

OAC Rule 3745-27-19(B)(2) states, *"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..."*

Based on documentation submitted to Ohio EPA and observations made by Ohio EPA, solid waste is located beyond the limits of waste placement approved in PTI # 02-4542. Therefore, the City is in violation of:

- OAC Rule 3745-27-02(A) for modifying a solid waste facility without obtaining a permit to install issued by the director,
- OAC Rule 3745-27-19(B)(2) for not conducting all construction and operation at the a sanitary landfill facility in strict compliance with PTI # 02-4542.

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 Materials and
Waste Management

Judy Bowman
Environmental Specialist
Division Materials and
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CM/JB/cl

cc: File: [Land/Brooklyn LF/Cor/18]

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