



State of Ohio Environmental Protection Agency

Northeast District Office

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

December 20, 2007

RE: NOTICE OF VIOLATION

CERTIFIED MAIL

Max Motil
Max S. Motil, Inc.
12335 Old State Road
Chardon, Ohio 44024

Dear Mr. Motil:

On December 11, 2007, Ohio Environmental Protection Agency (Ohio EPA) and Geauga County Health Department inspected Max S. Motil, Inc., located at 12335 Old State Road, Chardon. The purpose was to look at the three proposed compost handling areas that were illustrated in the Class II compost registration application received on November 19, 2007. This letter provides a notice of violations and comments.

Attending the inspection were you representing Max S. Motil, Inc., Michael Malicky and Neal Malicky, representing Geneva Pipeline LLC, Herbert Shubick, Michael Tusick, and David Sage, representing Geauga County Health District, and I, representing Ohio EPA, Division of Solid and Infectious Waste Management.

The violations were observed at the northeast section of the property where there were several windrows of composting materials. The leachate was flowing northwest following the slope of the field and into wheel ruts that went from a bare soil area to the windrows. The leachate then flowed north from the bare soil over a small drop-off to a marsh or low-lying area located north of the property.

VIOLATIONS

1. Ohio Administrative Code (OAC) 3745-27-41(A) License requirement

This rule states in part, "No person shall establish or operate a class II, III, or IV composting facility without first submitting the notification required by paragraph (D) or (E) of this rule. Thirty days after the receipt of a complete notification by Ohio EPA, the composting facility shall be considered to be a "registered composting facility" and the owner or operator may do either of the following:

- (1) *For a class II composting facility, commence construction of the facility and, after obtaining a license in accordance with Chapter 3745-37 of the Administrative Code, commence operation of the facility.*

The facility is in violation of the above rule because the facility had commenced operation before receiving a license from Geauga County Health District. The facility received composting materials (manure, saw dust and straw) from offsite and created windrows with the composting materials at the northeast section of the property. To achieve compliance, the facility must immediately stop receiving and/or delivering composting materials. The facility must receive a license from the health district before commencing composting operations.

2. OAC 3745-27-41(D) Financial assurance requirement

This rule states in part, *"Notification of class II or class III composting facilities.*

- (1) *Not less than thirty days prior to the date on which the class II or class III composting facility will accept authorized feedstocks, bulking agents, or additives, the owner or operator of a class II or class III composting facility shall submit to the director and to the approved health district having jurisdiction a complete notification on forms prescribed by the director to register the composting facility which shall consist of the following:*

(g) *Financial assurance information including the following:*

- (i) An itemized written estimate, in current dollars, of the cost for a third party to complete final closure of the facility in accordance with rule 3745-27-47 of the Administrative Code. The itemized written estimate shall be in accordance with rule 3745-27-15 of the Administrative Code and shall be based on the costs necessary to dispose or transfer a quantity of materials equal to the maximum facility capacity for solid wastes, including cured compost, feedstocks, bulking agents, and additives as documented in the facility notification of registration except that the quantity of compost product which will be stored at the facility shall not be considered when estimating these costs. For the purposes of this rule, disposal costs per ton shall be based upon current rates at the time the final closure costs are estimated, at a solid waste facility in the vicinity.

- (ii) An unexecuted draft of the financial assurance instrument, in accordance with rule 3745-27-15 of the Administrative Code.”

The facility is in violation of the above rule because the facility had commenced operation before completing the application process. The facility received composting materials (manure, saw dust and straw) from offsite and created windrows with the composting materials at the northeast section of the property. To achieve compliance, the facility must immediately stop receiving and/or delivering composting materials. The facility must complete the financial assurance requirements listed above before commencing composting operations.

3. Ohio Revised Code (ORC) 6111.04(A) Polluting waters of the state

This law states in part,

- (1) *No person shall cause pollution or place or cause to be placed any sewage, 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.”*

The facility is in violation of the above law because leachate was entering waters of the state. Specifically, leachate was flowing from the compost windrows to an erosion ditch that led to a small creek that flowed off the property. In addition, the erosion ditches in the new soil area are evidence that sediments have been entering waters of the state also. There were no erosion controls at the new soil area such as mulch or sediment fencing.

To achieve compliance, the facility must: 1) repair and stabilize the new soil area to prevent further discharge of sediments; and 2) contain all leachate onsite. All collected leachate must be containerized and transported to a licensed wastewater treatment facility for treatment. Treatment receipt copies must be sent to Ohio EPA and Geauga County Health District. Please describe what interim and permanent measures will be utilized to comply with ORC 6111.04.

COMMENTS

1. The windrows/leachate area is approximately 2,900 feet from East Branch Reservoir, a public water source for the city of Akron. Leachate management is even more critical because the nearby creeks flow to the Cuyahoga River that flows into East Branch Reservoir.

2. Ohio EPA requires Max S. Motil Inc. to apply for and obtain a National Pollutant Discharge Elimination System (NPDES) permit for general storm water management prior to any additional composting activities. Please contact Chris Moody, Ohio EPA, Division of Surface Water, at (330) 963-1164 for permit application information.
3. You indicated that the finished compost may include approximately 2% alum sludge. Alum sludge is considered a Type I feedstock and the facility will need an authorization from Ohio EPA prior to accepting the material for composting. Max S. Motil, Inc., has submitted an application to utilize alternative materials to Ohio EPA. Please contact Joseph Goicochea, Ohio EPA, Division of Solid and Infectious Waste Management, at (614) 728-5349 for information on the status of the alternative material application.
4. Alum sludge cannot be directly applied to land unless the facility receives a prior authorization from Ohio EPA, Division of Surface Water. Please contact Jacob Howdyshell at (614) 644-2018 for additional information. Also, a permit to install is required for construction of any waste treatment system. In addition, regarding leachate collection, Ohio EPA, Division of Surface Water, can provide information about the applicable regulations and permits required to construct a collection system.
5. Max S. Motil, Inc., has submitted a copy of a letter of credit to Ohio EPA dated November 5, 2007. In order to satisfy the financial assurance requirement, Max S. Motil, Inc., must submit to Ohio EPA the letter of credit with original signature accompanied with a standby trust fund, pursuant to OAC Rule 3745-27-15. After Ohio EPA has reviewed the submitted documents, Max S. Motil, Inc., will be notified of the determination in writing.
6. Max S. Motil, Inc. may not commence operations until a solid waste facility license has been obtained. Please contact Michael Tusick, Geauga County Health District, at (440) 279-1910 for information on the status of the license application.
7. The locations of the materials placement areas were discussed during the inspection. Max S. Motil, Inc., may choose to change the location of the materials placement areas to better manage run-on, run-off, and leachate from the site. If the materials placement areas are changed, please ensure that the plan view drawing for the facility is updated and submitted to Ohio EPA and the Geauga County Health District.

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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 Max S. Motil, 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 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: Chris Moody, DSW, NEDO
Joseph Goicochea, DSIWM, CO
Michael Tusick, Geauga County Health District
Michael Malicky, Geneva Pipeline LLC
Carmella Shale, Geauga County Soil and Water Conservation District
K. Collin Coy, City of Akron Water Supply
File: [Sowers/COMP/Max S. Motil, Inc./COR/28]