



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

December 2, 2009

RE: NOTICE OF VIOLATIONS

CERTIFIED MAIL

Murl Clemson
Owner
Universal Disposal, Inc.
9954 Old State Road
Chardon, Ohio 44024

Dear Mr. Clemson:

On October 9, 2009, Ohio Environmental Protection Agency (Ohio EPA) and Geauga County Health Department (GCHD) inspected Universal Disposal, Inc. The facility collects and transfers residential and commercial solid waste, provides septic cleaning, provides roll off containers, provides mulch services, and stores clean hard fill. The facility is located at 9954 Old State Road in Chardon, Ohio. This letter provides a notice of violations and comments regarding surface water management observed during the inspection. This letter also provides comments regarding previous solid waste transfer activities.

Present for the inspection were you and Mark Clemson representing Universal Disposal, Inc., Dave Sage representing GCHD, and myself representing Ohio EPA, Division of Solid and Infectious Waste Management (DSIWM). Ohio EPA, DSIWM's purpose for the inspection was to respond to a complaint alleging that the facility was operating as an illegal municipal solid waste transfer station. The violations observed during the inspection and related comments are below, followed by potential violations resulting from the transfer of solid wastes.

Violations and Comments from October 9, 2009 Inspection

Transfer Building

You indicated that the transfer building had operated from April 2009 to September 2009, but transfer activities had recently stopped due to an investigation and potential enforcement by Geauga-Trumbull Solid Waste Management District (GTSWMD). The transfer building was clean and no solid waste was in the building. The upper level has a concrete floor and metal shoot leading to a compactor and roll off box located on the lower level. A small drain was seen on the lower level floor in front of the roll off box. There was an underground leachate tank located outside of the building near the driveway leading to the lower level of the transfer building. The concrete lid was removed from the concrete leachate tank. A ditch is located along side of the lower level driveway.

1. Violation: The leachate containment tank does not have a permit issued by Ohio EPA, Division of Surface Water. During the time the facility operated from April 2009 to September 2009, the owner/operator was in violation of **Ohio Revised Code (ORC) 6111.44**. This law states: "no municipal corporation, county, public institution, corporation, or officer or employee thereof or other person shall provide or install sewerage or treatment works for sewage, sludge, or sludge materials disposal or treatment or make a change in any sewerage or treatment works until the plans therefore have been submitted to and approved by the director of environmental protection."

The leachate storage tank is a wastewater holding tank and subject to a permit to install (PTI) review. Installing a wastewater treatment system without a PTI is a violation of ORC 6111.44.

To achieve compliance, the owner/operator must apply to Ohio EPA for a PTI for this leachate storage tank. Please be aware, this storage tank may not meet the requirements for storage tanks as listed in Ohio Administrative Code 3745-34-11. Please contact Laura Weber at (330) 963-1299 for information regarding the National Pollutant Discharge Elimination System (NPDES) and PTI applications.

2. Comment: The leachate tank was entirely full of leachate. Ohio EPA requests emptying the tank more frequently to keep the tank from overflowing.

Mulch Pile Area

There was a large pile of mulch that was dyed black. Black dye was draining to a nearby ditch that flowed into a pond. The pond appeared to be several acres in size. The pond had a discharge that was flowing out on the other side of the pond. The discharge flowed across a gravel/soil area of the facility then went into a wooded area. The discharge appeared to be clear. You provided Material Safety Data Sheets (MSDS) for the dyes that are used on site.

3. Comment: Regarding the black dye drainage, if the dye enters surface water and leaves the site, the dye would be considered a discharge of pollutants to "waters of the state." Universal Disposal does not have a National Pollutant Discharge Elimination System (NPDES) permit to discharge this material into waters of the state. Therefore, Universal Disposal may be in violation of Ohio Revised Code 6111.04.

ORC Section 6111.04 states in part, "*No person shall cause pollution or place or cause to be placed any sewage, industrial waste, or other wastes in a location where they cause pollution of any waters of the state, and any such action is hereby declared to be a public nuisance, except in such cases where the director*

of environmental protection has issued a valid and unexpired permit, or renewal thereof, as provided in sections 6111.01 to 6111.08 of the Revised Code, or an application for renewal is pending.”

Discharging storm water or wastewater to Waters of the State without an NPDES permit is a violation of ORC 6111.04 and 6111.07. Because your facility has not obtained the required NPDES permit, you may be in violation of ORC 6111. Violations of ORC 6111 are punishable by fines of up to \$10,000 per day of violation. Please contact Laura Weber at (330) 963-1299 to determine NPDES permit applicability.

4. Comment: In regards to the dye, **Ohio Administrative Code (OAC) 3745-1-04** defines criteria applicable to all waters, which states in part,

“The following general water quality shall apply to all surface waters of the state including mixing zones. To every extent practical and possible as determined by the director, these waters shall be:

- (A) Free from suspended solids or other substances that enter the waters as a result of human activity and that will settle to form putrescent or otherwise objectionable sludge deposits, or that will adversely affect aquatic life;*
- (B) Free from floating debris, oil, scum and other floating materials entering the waters of the state as a result of human activity in amounts sufficient to be unsightly or cause degradation;*
- (C) Free from materials entering the waters as a result of human activity **producing color**, odor or other conditions in such a degree as to create a nuisance;”*

Given the above requirements, Universal Disposal should contain any dye drainage into a separate collecting basin and not allow the drainage to enter the large pond. Any collected dye should be disposed of in accordance with applicable rules and laws. In addition, Universal Disposal does not have a valid NPDES permit to discharge dye from the facility to waters of the state. Enclosed with this letter are copies of the NPDES permit application, Forms 1 and 2C. Please submit the completed NPDES permit application and application fee of \$200 to the Ohio EPA, Northeast District Office. If you have any questions regarding your NPDES permit application, please contact Laura Weber at (330) 963-1299.

5. Regarding the entire site activities, Universal Disposal must apply for an NPDES Permit for the Industrial Activities on this site. Regarding this permit, Part IV, V and VI will require a Storm Water Pollution Prevention Plan (SWP3). Part IV

states, "The plan shall identify areas which due to topography, activities, or other factors have a high potential for significant soil erosion and identify measures to limit erosion." Erosion and sediment control standards in **Rainwater and Land Development**, Ohio's Standards for Stormwater Management, Land Development and Urban Stream Protection, state that any area at final grade or any disturbed area that will remain dormant for 21 days or longer should be stabilized within 7 days of last disturbance. Failure to stabilize the site in accordance with these acceptable standards is a violation of Part IV of the NPDES permit and Ohio Revised Code (ORC) 6111.04 and 6111.07.

As stated above, the NPDES Permit requires a SWP3. Ohio EPA requests that the facility immediately apply for the NPDES permit and comply with all requirements of an SWP3. In addition, please send a copy of the facility's SWP3 to Dan Bogoevski, Ohio EPA, Northeast District Office for further evaluation. Ohio EPA is concerned that nearby creeks are not adequately protected from sedimentation and dye from the facility's surface water run-off.

Comment Regarding Air Pollution Control

6. Ohio EPA did not evaluate the potential for air pollution control permits. Please contact Bert Mechenbier, Supervisor, Lake County Health General District, at (440) 350-2543 regarding applicable air pollution control permits.

Comment Regarding Transfer Activity

7. Universal Disposal does not have a solid waste transfer facility license and permit issued by Ohio EPA. In order for the facility to operate legally, the transfer facility must either apply for and obtain required authorizing documents or operate within the requirements of the license and permit exemption described in OAC 3745-27-03(A)(11). This rule states:

"Chapters 3745-27, 3745-29, 3745-30 and 3745-37 of the Administrative Code shall not apply to the following activities and/or facilities:

Facilities used for the transfer of solid wastes, other than scrap tires, that consist solely of portable containers and that have an aggregate volume of fifty cubic yards or less. The waste must not be placed on the ground or waste handling floor. These facilities are still subject to paragraph (A)(2) of this rule.

For the purposes of this rule, "aggregate volume" is the total volume of all portable containers at a facility designated for receiving solid wastes. The total volume of containers at a facility does not include the volume of an empty portable container being delivered to a facility by a transport vehicle, whose

purpose includes removal of a full or partially full container of equal or greater volume, at the time of delivery of the empty container."

GTSWMD provided Ohio EPA a daily log summary of the Universal Disposal trucks arriving at Central Waste Landfill, in Mahoning County. The summary indicates that the transfer facility loaded trucks for transfer with loads of solid waste that were in excess of 27 tons per load. This amount of weight per truck appears to indicate that some trucks likely had roll off boxes that were greater than 50 cubic yards in size.

The summary shows the entries of three trucks used to transfer waste numbered UN230, UN28, and UN233.

No. UN230 has recorded loads ranging from 6.72 tons to 16.99 tons.

No. UN233 has recorded loads ranging from 17.16 tons to 30.32 tons.

No. UN28 has recorded loads ranging from 13.49 to 30.46 tons.

Ohio EPA is aware that a cubic yard of compacted solid waste could weigh as much as 1,000 pounds. Therefore, a 50 cubic yard box full of compacted solid waste could weigh 25 tons.

Ohio EPA searched the logbook summary for all trucks with loads of greater than 27 tons (indicating a box capacity that may be greater than 50 cubic yards). There were 18 loads that were greater than 27 tons. Ohio EPA's summary of loads greater than 27 tons is attached.

Regarding the above solid waste transfer activities, Universal Disposal may have violated the following laws and rules:

Ohio Revised Code (ORC) 3734.02(C) Permit-to-install

This law states in part, ". . . Except as provided in this division and divisions (N)(2) and (3) of this section, no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director.."

Ohio Administrative Code (OAC) 3745-37-01(A) License

This rule states in part, "No person shall conduct municipal solid waste landfill, industrial solid waste landfill, residual solid waste landfill, compost facility, transfer facility, infectious waste treatment facility, or solid waste incineration facility

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operations without possessing a separate, valid license for each such operation, as required by Chapter 3734. of the Revised Code and the Administrative Code rules adopted thereunder. Each license shall be obtained from the board of health in the health district in which the facility is located, or by the director, if the director has assumed the licensing function for that health district."

ORC 3734.05(A) License for a solid waste facility

This law states in part, "Except as provided in divisions (A)(4), (8), and (9) of this section, no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code."

ORC 3734.11(A) Prohibitions

This law states in part, "No person shall violate any section of this chapter, any rule adopted under it, or any order issued under section 3734.13 of the Revised Code."

Regarding the above, if Universal Disposal transferred solid waste in portable containers that had a volume of greater than 50 cubic yards, then Universal Disposal has violated the above regulations due to not obtaining a permit-to-install and license prior to establishing a solid waste facility. Only a permitted and licensed transfer facility can use portable containers that have a volume of greater than 50 cubic yards.

Universal Disposal must obtain a solid waste transfer facility license and permit from Ohio EPA or operate as a legally exempt transfer facility pursuant to OAC 3745-27-03(A)(11).

In closing, please be advised that the October 9, 2009 inspection was not comprehensive and, as such, this correspondence is not intended to imply or convey Universal Disposal's compliance with the requirements of all other applicable rules and regulations.

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 Universal Disposal 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.

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Please respond to the above violations and comments within 14 days of receipt of this letter. Please include a description and/or schedule for compliance. Please include descriptions of the transfer containers that were used in the attached summary.

If you should have any questions regarding this letter, please call me at (330) 963-1286.

Sincerely,



Dave Dysle
Environmental Specialist
Division of Solid and Infectious Waste Management



Laura Weber, P.E.
Environmental Engineer
Division of Surface Water

DD/LW/cl

att: NPDES permit application, forms 1 and 2C
Summary table of truck load information

cc: Rich Blasick, DSW, NEDO
Laura Weber, DSW, NEDO
Barry Chapman, DSIWM, CO
Joe Goicochea, DSIWM, CO
Jeff Hurdley, DSIWM-Legal, CO
Bert Mechenbier, Lake County Health District, Air Pollution Control
Dave Sage, Geauga County Health Department
Greg Kovalchick, Geauga-Trumbull Solid Waste Management District
Karen Sweet, Geauga County Prosecutor's Office
File: [Sowers/COUN/Universal Waste/COR/28]

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Universal Disposal

Truck Load Information from Central Waste Landfill

Ticket	Date	Truck	Net Weight-Tons
146663	07/02/09	UN233	29.83
148355	07/17/09	UN233	28.60
149941	07/31/09	UN233	30.32
150231	08/04/09	UN233	27.79
150656	08/07/09	UN233	27.12
151038	8/11/09	UN233	29.87
151101	8/12/09	UN233	27.87
141203	5/15/09	UN28	27.30
142190	5/26/09	UN28	28.20
142457	5/28/09	UN28	27.85
143138	6/3/09	UN28	29.45
145672	6/23/09	UN28	27.05
146497	7/1/09	UN28	29.13
147083	7/7/09	UN28	28.68
147251	7/8/09	UN28	27.65
147554	7/10/09	UN28	29.30
147673	7/10/09	UN28	27.73
148355	7/17/09	UN28	28.60

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Sent to Muri Clemson
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PS Form 3800, August 2006 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature <input checked="" type="checkbox"/> <u>Kam P. [Signature]</u> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <u>Kam P. [Signature]</u> C. Date of Delivery <u>12/3/09</u></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>1. Article Addressed to:</p> <p>Muri Clemson, Owner Universal Disposal, Inc. 9954 Old State Road Chardon, Ohio 44024</p>	<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (Transfer from service label) <u>7009 1680 0000 6381 1961 D. Kuyke 12/2/09</u></p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>