



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

June 19, 2007

**RE: NOTICE OF VIOLATION
TWL PENN-OHIO C&DD LANDFILL**

CERTIFIED MAIL

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

Dear Mr. Clark:

On April 17, 2007, I, representing the Ohio Environmental Protection Agency (Ohio EPA), conducted a comprehensive 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. Scott Winkler and Matt Boyer, representing Ohio EPA, assisted me in conducting the inspection. Weather conditions on this occasion were overcast with some local drizzle. Tim Clark, representing Penn-Ohio, accompanied Ohio EPA during this inspection.

The purpose of the inspection was to determine compliance with Ohio Revised Code (ORC) Sections 3714. and 3734., and Ohio Administrative Code (OAC) Chapters 3745-400 and 3745-27. The following violations were identified during the inspection:

1. **Solid Waste Disposal:** Prohibited waste was observed disposed at this facility. Prohibited solid waste included, but was not limited to the following: articles of clothing, beverage containers, food wrappers and containers, business papers, business records and billings, toys, multiple partially buried furniture cushions, a spiral bound notebook, photograph negatives, magazines, a VCR, a VCR tape, a base of a rolling office chair, gloves, the back of a straight back upholstered chair, what appeared to be the base of a couch including springs, a large red plastic delivery rack, a trophy cup, phone books, an oil filter, a can of Prestone De-Icer, multiple shoes (some partially buried), a purse, postal envelopes, books, a United States Postal Service letter tote box, an infant swing set, a measuring tape, a business binder, a computer disk, and a Christmas tree stand. Disposed solid wastes were observed both in the working face, and in areas where debris was disposed on a previous day(s).

Penn-Ohio is in violation because it was allowing the disposal of solid waste in its facility. The above referenced solid wastes were observed disposed both in the facility's current working face, and in areas adjacent to the current facility working face, where disposal had occurred on a previous day or days. The owner or operator is not making sufficient effort to remove all prohibited wastes in the facility unloading zone. 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 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. During the inspection, facility personnel were removing prohibited solid waste from the working face, however, by virtue of the fact that these wastes were also present in areas outside the current facility working face, 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.

- 2. **Weekly Cover.** During this inspection it was determined that weekly cover was not being applied to all disposed combustible debris. The owner or operator was informed that no additional debris could be disposed, or weekly cover applied, until all solid waste was removed from the current working face and the previous debris disposal areas.

Penn-Ohio is in violation because it 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 all applicable laws and rules, the owner or operator must cover all disposed combustible debris on a weekly basis with soil, clean hard fill, or other material which is noncombustible. Prior to applying cover, however, the owner or operator must comply with violation number 1 in this letter, and remove all prohibited solid waste.

3. **Surface Water Management:** During this inspection, Ohio EPA documented that the rail unloading area was very muddy, and surface water did not appear to be readily contained and collected by the leachate collection system.

Penn-Ohio is in violation because it was failing to properly manage surface water at the facility. In addition to the violations which will have been previously detailed in the Ohio EPA Division of Surface Water's (DSW) Notice of Violation, Penn-Ohio's failure to properly manage surface water at its C&DD facility is at a minimum a violation of the following:

- a. **OAC Rule 3745-400-11(B)(16)**: *"The owner or operator shall not cause water pollution."*

In order to return to compliance with this rule, the owner or operator must immediately correct the conditions which were observed during this inspection, as well as any violations which have not been resolved with respect to DSW's previous inspections at the facility.

The following observations were made during this inspection:

1. The unloading zone was clearly designated by four orange cones.
3. Two pickers were going through incoming loads of debris.
4. Three truck loads of incoming debris were observed as they were tipped into the facility unloading zone. The debris was determined to be identifiable, but the owner or operator was cautioned that loads should definitely not contain more fines than what were observed in those loads.
5. No dragout of mud onto State Route 170 was observed.
6. No hydrogen sulfide odors were detected coming from the landfill.
7. The access roads within the facility were very muddy.

While the violations were presented to and discussed with the owner or operator at the time of the inspection, I would like to apologize for not forwarding them to you in the form of a letter in a timely manner. The owner or operator of Penn-Ohio must take all necessary measures to comply with Ohio's solid waste and C&DD laws and rules. Please provide written notification to me within 15 days of receiving this letter which documents how the violations listed above have been corrected, and at this point, as importantly, what measures have been implemented to prevent any such recurrence of these violations.

Mr. Tim Clark
Penn-Ohio C&DD
June 19, 2007
Page 5

Failure to correct the above violations and operate this facility in accordance with all applicable state laws and rules could result in escalated enforcement action 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



Scott Winkler
Environmental Specialist
Division of Solid and Infectious
Waste Management

JWW/SW/cl

cc: Dan Bogoevski, DSW-NEDO
Joe Trocchio, DSW-NEDO
Robert Morehead, Columbiana County Health Department
File: [Tukel/CONS/Total Waste Logistics - Penn-Ohio Facility/COR/15]