



**Environmental
Protection Agency**

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

June 21, 2011

RE: NOTICE OF VIOLATION

CERTIFIED MAIL

Lisa King
Program Manager
Metro Parks Serving Summit County
975 Treaty Line Road
Akron, Ohio 44313

Dear Ms. King:

On June 15 and 16, 2011, Ohio Environmental Protection Agency (Ohio EPA), inspected the construction of the Towpath Trail at Ohio Brass Landfill, located west of Russell Avenue Landfill, east of the Tuscarawas River, and north of Pittsburg Plate Glass (PPG) Lime Lake #3, Barberton. Specifically, Ohio EPA saw the tunnel excavation at the railroad tracks, at the south end of Ohio Brass Landfill. This letter provides a notice of violations and comments identified during the inspections.

The trail construction on Ohio Brass Landfill, including the installation of a tunnel under the railroad tracks, was approved by an authorization, pursuant to Ohio Administrative Code (OAC) 3745-27-13, dated January 28, 2008 (2008 Rule 13). Ohio Brass Landfill is owned by Akron Barberton Cluster Railway Company. The landfill waste includes porcelain insulators and contaminated soil.

Attending the June 15, 2011 inspection were Lynn Sowers and I of Ohio EPA. The following was observed:

- the excavation for the tunnel at the railroad crossing, exposed waste was in the excavation;
- a newly cleared haul road that had a large amount of excavated waste placed in a low area of the haul road; and
- approximately 300 feet north of the excavation, there was a large pile of uncovered waste on the ground.

Violations

1. Regarding the waste in the haul road and the waste pile, the owner/operator is in violation of condition 7 of the 2008 Rule 13 for not properly storing waste. A copy of the 2008 Rule 13 is attached for your convenience.

Condition 7 states,

"All solid waste to be removed from the Facility shall be containerized and securely stored until these materials are properly characterized and disposed in accordance with Ohio Revised Code (ORC) Chapter 3734 and the regulations promulgated thereunder."

2. Also, regarding the waste in the haul road, the owner/operator is in violation of condition 12 of the 2008 Rule 13 for placing waste above previously existing vertical limits of waste.

Condition 12 states,

"No excavation of waste shall occur unless the excavated waste is replaced within previously existing vertical and horizontal limits of waste placement or is treated or disposed of at a licensed, permitted treatment or disposal facility, in accordance with ORC Chapter 3734 and the regulations promulgated thereunder. In no event shall waste be placed at any elevation lower than existing waste elevations at any given location."

Ohio EPA discussed the violations with the three Mark Hayes Construction, Inc. employees on site and by phone with Paul Miller, Mark Hayes Construction, Inc. Ohio EPA requested scraping the waste off of the haul road and cover the haul road waste and waste pile with tarps or plastic sheets as soon as possible.

Later, Ohio EPA discussed with Mr. Miller that "containerized" generally means placing waste in a roll-off box with a lid or tarp to prevent rain water infiltration. Mr. Miller began arrangements for securing roll-off boxes.

On June 16, 2011, Ohio EPA re-inspected the site. Attending the inspection were Julie Brown, Summit County Health Department, Allison Giancola and I from Ohio EPA. At that time, the haul road waste was scraped away from the haul road and was covered by tarps. Also, the waste pile was being covered by tarps. Mr. Miller indicated that the waste would be removed for disposal as soon as the waste was characterized as required by Conditions 7, 8 and 9.

On June 17, 2011, Mr. Miller e-mailed Ohio EPA the waste characterization results and the letter of landfill acceptance (required by Condition 9). The characterization indicates that the waste is not hazardous. Therefore, waste disposal at a licensed solid waste facility may begin, pursuant to conditions 7, 8 and 9.

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Comments

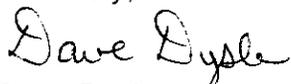
- All excavated waste needs to be containerized and securely stored as soon as possible. Excavated waste needs to be immediately containerized, such as in roll-off boxes that are covered with lids or tarps.
- Also, any exposed waste in the excavation, including slopes of the tunnel construction, needs to be covered by the end of each day with tarps, plastic sheets, or 6 inches of soil, in order to prevent rain water infiltration and the generation of leachate.

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/operator 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 respond in writing to the above violations and comments within 14 days of receipt of this letter. Please include a description and/or schedule for compliance.

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

Sincerely,



Dave Dysle
Environmental Specialist
Division of Materials and Waste Management

DD/cl

attachment: 2008 Rule 13

cc: Allison Giancola, DMWM, NEDO
Julie Brown, Summit County Health Department
File: [Sowers/COUN/Ohio Brass/COR/77]