



**Environmental
Protection Agency**

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

March 11, 2011

**RE: SUMMIT C&D DISPOSAL
NOVEMBER & DECEMBER 2010
JANUARY 2011 MONTHLY REPORTS
LEACHATE MANAGEMENT
NOTICE OF VIOLATION**

CERTIFIED MAIL

John R. Eslich cert 7010 1060 0000 0089 5502
Summit C&D Disposal, Inc.
3525 Broadway Ave. NE
Louisville, Ohio 44641

Patrick J. Loper II, P.E. cert 7010 1060 0000 0089 5458
Bowser-Morner Associates, Inc.
4518 Taylorsville Road
P.O. Box 51
Dayton, Ohio 45401-0051

Dear Mr. Eslich and Mr. Loper:

Ohio Environmental Protection Agency (Ohio EPA) reviewed a document regarding Summit C&D Disposal, Inc., from Bowser-Morner on behalf of Summit C&D Disposal, Inc. (Facility). The Facility is located at 1947 Wadsworth Road, Norton. This letter provides Ohio EPA's review results of the following monthly reports:

- December 2010, dated January 5, 2011, received January 6, 2011
- January 2011, dated February 7, 2011, received February 8, 2011
- February 2011, dated March 3, 2011, received March 4, 2011

The documents contain the site observations, construction progress, and a detailed summary of the leachate management records for December 2010, January 2011, and February 2011, as required by Order No. 11 in the Unilateral Director's Final Findings & Orders dated April 11, 2008 (DFFO), and the Final Revised 2010 and 2011 License Terms and Conditions.

Violations

1. The Respondent was in violation of DFFO Order No. 9, which requires the Respondent to dispose of all leachate collected at a permitted wastewater treatment facility, and prohibits the Respondent, under any circumstances, from using leachate for dust control or recirculation into the facility. It is clear from the subject documents that beginning on August 2, 2010, and continuing until

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December 30, 2010 on a nearly every-day basis, the Respondent re-circulated/used for dust control at the transfer pad, a cumulative total of 708,000 gallons of leachate. Beginning on January 3, 2011, and continuing for the entire months of January and February 2011, it appears the Respondent ceased these unauthorized activities and returned to compliance with DFFO Order No. 9.

2. The Respondent is in violation of DFFO Order No. 10, which requires the Respondent to maintain leachate management records that include the quantity of leachate sent for disposal, and the date the leachate was sent. As indicated in the preceding violation, from August 2, 2010 to December 30, 2010, the Respondent was recirculating/using for dust control at the transfer pad a cumulative total of 708,000 gallons of leachate. It is not clear from the monthly leachate management records that all of this leachate that was re-circulated/used for dust control at the transfer pad was properly collected and ultimately disposed of at a permitted wastewater treatment facility. In addition, the transfer pad is configured with a 10,000-gallon underground storage tank that supposedly collects all liquids that are spilled or splashed on the pad, but there were at least 20 days during this time period where there were 12,000 or more gallons of leachate sprayed or deposited on the transfer pad. It is entirely unclear what happened to the excess leachate on these days. Did the leachate overtop the pad and runoff to possibly impact surface or ground waters? How often was the underground tank pumped, if at all? Until the Respondent provides Ohio EPA official documentation (chain of custody, gate receipts from the wastewater treatment plant, etc...) showing the volume of leachate pumped from the underground storage tank and taken to the permitted wastewater treatment facility, and accounts for all 708,000 gallons of leachate that were sprayed/spilled on the transfer pad during this time period, the Respondent will remain in violation of DFFO Order No. 10.
3. The Respondent is in violation of Ohio Administrative Code (OAC) Rule 3745-400-11(B)(1), which requires the Respondent to conduct all operations at the facility in strict compliance with the license, any orders, and other authorizing documents issued in accordance with Chapter 3714 of Ohio Revised Code for, at a minimum, failing to operate the leachate management system on a consistent basis during working hours of the landfill, in accordance with Section 11(a) of the 2010 and 2011 Final Revised License Application Approval Terms and Conditions beginning November 3, 2010.

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The summary table in the January 2011 monthly report (attached) contains the breakdown of monthly leachate management records, revealed that the Respondent largely stopped pumping the leachate management system wells LW-7 and 8 beginning November 3, 2010. According to the table, the Respondent did not operate LW-7/LW-8 of the leachate management system for 38 consecutive business days from November 3, 2010 to December 28, 2010. However, in the following 43 consecutive business days from December 29, 2010 to February 28, 2011, the Respondent only operated LW-7/LW-8 on six days. Furthermore, according to the table, the Respondent only operated LW-6/LW-9 for four business days starting December 9, 2010 to February 28, 2011. In essence, the Respondent has largely not operated the entire leachate management system for three straight months (December 2010 through February 2011). The end result of this failure to operate the leachate management system has been a marked increase in the leachate levels monitored across the site (leachate levels are rising). As evidenced by this same table, the depth to leachate decreased from approximately 11-12 feet in LW-7 to 6-7 feet, from 12 -13 feet in LW-6 to 8-9 feet, from 15-16 feet in LW-9 to 11-12 feet, from 6-7 feet in LW-4 to 4-5 feet, and from 5-6 feet in LW-5 to 2-3 feet. Section 11(a) of the 2010 and 2011 Final Revised License Application Approval Terms and Conditions expressly requires the Respondent to operate the leachate management system on a consistent basis during working hours of the landfill, to maintain leachate levels to as low a level as is practical within the well and sump systems, and to have designed the leachate pumps to activate whenever leachate levels exceed 1-2 feet.

To return to compliance with OAC Rule 3745-400-11(B)(1) and with Section 11(a) of the 2011 Final Revised License Application Approval Terms and Conditions, the Respondent should take any and all necessary steps to immediately resume consistent operation of the leachate management system.

4. The Respondent was in violation of OAC Rule 3745-400-11(P)(3), which requires the Respondent to manage and dispose of leachate in accordance with applicable regulations, for the unauthorized spraying or spilling of leachate on the transfer pad for the purpose of dust control or recirculation. As indicated in the preceding violation, the Respondent has been required in accordance with OAC Rule 3745-400-11(B)(1) {the applicable regulation}, to follow all stipulations contained in the 2010 Final Revised License Application Approval Terms and Conditions. The only option for handling leachate according to the 2010 Final Revised License Application Approval Terms and Conditions is to dispose of all

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leachate off-site at an approved and permitted wastewater treatment facility on a consistent and continuous basis during normal operating hours of the facility.

It is clear from a review of the subject documents that the Respondent did not directly dispose of all leachate off-site at an approved and permitted wastewater treatment facility on a consistent and continuous basis from August 2, 2010 to December 30, 2010. Instead, during this time period, leachate was sprayed on the transfer pad for dust control. This was an unauthorized use of leachate according to the 2010 Final Revised License Application Approval Terms and Conditions, OAC Rule 3745-400-11(B)(1), and therefore OAC Rule 3745-400-11(P)(3).

The Respondent appears to have fully returned to compliance with this rule at the beginning of January 2011, when the Respondent ceased spraying leachate on the transfer pad for dust control.

If you have any technical questions regarding this review, please contact Mark Kroenke at (330) 963-1225. Please submit all correspondence to Dave Dysle, Division of Solid and Infectious Waste Management, Northeast District Office, Ohio EPA, 2110 East Aurora Road, Twinsburg, Ohio 44087.

Sincerely,



Dave Dysle
Environmental Specialist
Division of Solid and Infectious Waste Management

DD:cl

Attachment: Leachate Management Summary

cc: Kelly Jeter, DSIWM, CO
Mark Kroenke, DDAGW, NEDO
Allison Giancola, DSIWM, NEDO
Robin Nichols, DSIWM-Legal
Sari Mandel, AGO
Darrick Willis, Summit County Health Dept.
Michael Cyphert, Walter & Haverfield LLP
File: [Sowers/CONS/Summit C&D Disposal/COR/77] DSIWM: #3064 & 3746