OhioEPA
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Northeast District Office

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

June 19, 2007

RE: NOTICE OF VIOLATION
ELKRUN INDUSTRIES C&DD LANDFILL

CERTIFIED MAIL

Mr. Raymond R. Crawford
Elkrun Industries, Inc.
9676 State Route 7
Rogers, Ohio 44455

Dear Mr. Crawford:

On April 17, 2007, I, representing the Ohio Environmental Protection Agency (Ohio EPA), conducted a comprehensive inspection of the Elkrun Industries, Inc. C&DD Landfill (Elkrun), located at 9676 State Route 7 in Elkrun Township, 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. Mary Beth Jackson, representing Elkrun, was present at the facility 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, many beverage containers, papers, toys, many food wrappers and containers, books, an area rug, a large spool of thread/string, cardboard boxes not associated with construction packaging, a steel folding chair, artificial Christmas tree parts, a gasoline container, several green furniture cushions, an in-line roller skate, a large plastic banner, a radio, and multiple large bulky items. Disposed solid wastes were observed both in the current day's working face and in the working face from the previous day(s). One load of debris containing prohibited materials was observed unloaded directly onto the working face.

   Elkrun 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 working face, and in an area adjacent to the facility working face, where disposal had occurred on the previous day or days. The owner or operator is not making sufficient effort to remove all prohibited wastes in the facility unloading zone, and the solid wastes that were being removed from the current working face appeared to exceed the regulatory threshold established by statute for determining if a violation is warranted. The facility's previous day's disposal records showed that only 424.05 tons were disposed on April 16, 2007. Elkrun'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 materialsresulting 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...*

(a) *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 present in areas outside the facility working face, it indicates that insufficient effort is being made to remove prohibited solid wastes in thefacility unloading zone. In order to prevent a similar violation in the future, the owner or operator of Elkrun 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. It should be noted that the facility owner or operator regularly faxes rejected load notifications to the district office.

2. **Unloading Zone.** The facility's unloading zone was not designated or clearly marked with at least two temporary markers during this inspection.

Elkrun is in violation because it failed to designate and clearly mark its unloading zone. Failure to designate and clearly mark the unloading zone is a violation of the following:

a. **OAC Rule 3745-400-11(F)(3)(a):** *"The owner or operator shall unloadthe debris in clearly designated and marked unloading zones separate from the working face..."*

b. **OAC Rule 3745-400-11(F)(3)(b):** *"The owner or operator shall clearly mark the limits of the unloading zone with at least two temporary markers."*

In order to return to compliance with all applicable laws and rules, the owner or operator must designate and clearly mark its unloading zone with at least two temporary markers at all times during operations

The following observations were made during this inspection:

1. A moderate amount of drag out of mud from the facility onto State Route 7 was observed.

2. No odors were detected coming from the landfill.

3. Approximately five pickers were removing prohibited solid waste from the unloading zone and working face.

4. It could not be determined during this inspection if the facility was placing weekly cover over all combustible debris on a weekly basis.

5. The owner or operator was advised to ensure that prohibited solid wastes that are removed from the facility working face and unloading zone are logged properly on the daily logs. During the inspection large amounts of prohibited solid wastes were being removed from the facility working face. The facility's daily logs indicated that very little prohibited solid waste was being removed from the working face, and much larger amounts were being removed from the unloading zone during previous days.

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 Elkrun 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.

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 Elkrun, 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: Robert Morehead, Columbiana County Health Department
File: [Tukel/CONS/Elkrun Industries/COR/15]