



State of Ohio Environmental Protection Agency

Northeast District Office

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

April 30, 2007

RE: **NOTICE OF VIOLATION
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 23, 2007, I, representing the Ohio Environmental Protection Agency (Ohio EPA), conducted a partial inspection of the Total Waste Logistics - Penn-Ohio C&DD Landfill (Penn-Ohio), located approximately 2000 feet north of the intersection of State Routes 154 and 170 in Negley, Columbiana County. The purpose of the inspection was to determine compliance with Ohio Revised Code (ORC) 3714. and Ohio Administrative Code (OAC) 3745-400, and ORC 3734. and OAC 3745-27. The only areas of the landfill that were inspected on this day were the facility's unloading zone, working face, and Active Licensed Disposal Area. The weather was sunny with a temperature of approximately 60° F.

I was accompanied during this inspection by Colum McKenna, representing Ohio EPA. Joe Costa, representing the facility owner or operator, also accompanied me during the inspection.

Penn-Ohio's secretary initially denied access to the facility to Ohio EPA. Ohio EPA personnel pointed out that they had the statutory right to access the facility, but agreed to await the arrival of Joe Costa before inspecting the facility working face and unloading zone. Ohio EPA drove to the facility entrance at State Route 170 and observed rail unloading operations while waiting for Joe Costa to arrive. Within five minutes, one of the Fuchs operators informed Ohio EPA that access to the facility had been granted, and that we could proceed to the working face and unloading zone whenever we wanted. Ohio EPA immediately drove to the facility working face and unloading zone.

The following violations were identified during this inspection:

1. **Solid Waste Disposal:** During this inspection, prohibited solid waste was observed disposed at this facility. Prohibited solid waste disposed at this facility included, but was not limited to plastic milk crates, several gym bags and purses, a folding cot with a mattress, lots of clothing, a red plastic 2-liter pop bottle tote, children's toys, magazines, newspapers, office papers, lots of shoes, too many beverage bottles and cans to count, a basketball, couch/chair cushions, a scrap bicycle tire.

Penn-Ohio is in violation because it was allowing the disposal of solid waste in its facility. The above solid wastes were observed disposed in areas of the facility where disposal had occurred during previous working days and possibly weeks, according to facility personnel. Some of the items, and most notably the folding cot, were observed partially buried and sticking out the side of an interior slope of the facility. 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...*
- (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 unloading zone, the working face, and areas where debris had not been deposited for days or weeks, however, by virtue of the fact that these wastes were disposed in such large volumes at the facility, 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. **OAC Rule 3745-400-11(H)(1)**: *“The owner or operator shall operate the facility in a manner that prevents fires by...covering all disposed combustible debris on a weekly basis with soil, clean hard fill, or other material which is noncombustible. For the purpose of this rule, covering means to apply noncombustible material in a manner such that combustible debris is not visible.”*

It was observed during this inspection that large areas of the landfill which contained uncovered combustible debris during the last few inspections contained combustible debris which remained uncovered. Insufficient effort to apply cover to the landfill has not been made.

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In order to return to compliance with this rule, the owner or operator of Penn-Ohio must cover all disposed combustible debris on a weekly basis with soil, clean hard fill, or other material which is noncombustible such that combustible debris is not visible.

The following observations were made during this inspection:

1. The odors of hydrogen sulfide gas and leachate were detected while conducting this inspection. The strong leachate odors may have been emanating from the leachate storage tanks.
2. A small leachate outbreak was observed near the toe of the slope on the northwest side of Cell 1. Staining indicated that leachate had previously been running from the toe of the landfill into the ditch at the toe of debris placement, inside the access road. No odors were detected in this area.
3. Blowing litter, including plastic and paper, was observed during this inspection. OAC Rule 3745-400-11(L) requires that the owner or operator shall employ all reasonable measures to collect, properly contain, and dispose of scattered litter at the active licensed disposal area of a facility, including frequent policing of the area and the use of portable wind screens where necessary. At the time of the inspection, Mr. Costa stopped unloading and disposal operations at the facility due to the high winds and directed site personnel to retrieve blowing litter. This action was appropriate given the weather conditions. It is recommended that the facility owner or operator also consider using wind screens and fencing, or other measures, to control blowing litter.

The egregious nature of the violations observed during this inspection is a clear indication that Penn-Ohio is either unable or unwilling to comply with Ohio's laws and rules relating to the disposal of solid waste. The owner or operator of Penn-Ohio must immediately take all necessary measures to return to compliance with Ohio's solid waste and C&DD laws and rules. Please provide written notification to me within seven days of receiving this letter which documents how the violations listed above have been corrected, and what measures will be implemented in the future to prevent any such recurrence of these violations.

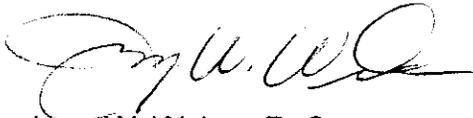
Failure to correct the above violations and operate this facility in accordance with all applicable state laws and rules may result in escalated enforcement action being taken against the owner or operator of this facility by Ohio EPA.

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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

JWW:cl

cc: Colum McKenna, DSIWM-NEDO
Robert Morehead, Columbiana County General Health District
File: [Tukel/CONS/Total Waste Logistics (Penn-Ohio)/COR/15]