



State of Ohio Environmental Protection Agency

Northeast District Office

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

June 20, 2007

**RE: NOTICE OF VIOLATION
TOTAL WASTE LOGISTICS
PENN-OHIO FACILITY C&DD LANDFILL
PARTIAL INSPECTION**

CERTIFIED MAIL

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

Dear Mr. Clark:

On April 21, 2007, I, representing the Ohio Environmental Protection Agency (Ohio EPA), conducted a partial 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, Ohio. 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. Weather conditions were sunny, with a temperature of approximately 45° F.

Colum McKenna, representing Ohio EPA, accompanied me during the inspection.

Upon arriving at the facility, the gate at the facility entrance was closed and locked. While standing on State Route 170, Ohio EPA observed debris scattered on the ground around the railcars that were present in the railcar unloading area. An inspection of the railcar unloading area was conducted. At the conclusion of this inspection, Ohio EPA was departing Negley when two men in the parking lot located immediately south of the intersection of State Routes 154 and 170 waved us down. We drove toward them and stopped to see why they were signaling us. The men were employees of Penn-Ohio, and they notified us that they had called Tim Clark, who was en-route to the facility. We then drove back to the entrance of the facility and awaited Mr. Clark's arrival. Upon arrival, Mr. Clark notified us that the facility was closed and that it had not operated on April 21, 2007. Ohio EPA notified Mr. Clark that the facility's license indicated that it was open on Saturdays, and that we had no way of knowing that it had not opened on that day. A further examination of Penn-Ohio's license indicates that it is indeed open to receive C&DD from Sunday through Saturday each week from 4 a.m. to 12 a.m. After explaining Ohio EPA's findings, all parties departed the facility.

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1. **Open Dumping of Solid Waste:** During this inspection solid waste was observed open dumped on the ground in the railcar unloading area at this facility. The solid waste observed open dumped and scattered in this area was from, at a minimum, the previous day's operations. Mr. Clark verified that no unloading operations had taken place on April 21, 2007. Solid waste open dumped at this location included, but was not limited to the following: beverage containers, food wrappers, a furniture cushions, product sale price tags, gloves, magazines, billings, and a fork.

In accordance with ORC Section 3734.01(I), "Open dumping" means the depositing of solid wastes into a body or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code."

Penn-Ohio is in violation because it has allowed the open dumping of solid waste at its facility. Penn-Ohio's open dumping of solid waste at its railcar unloading area of its C&DD facility is a violation of the following:

- a. **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."*
- b. **OAC Rule 3745-27-05(C):** *"No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code, and shall submit verification that the solid waste has been properly managed."*

In order to return to compliance with all applicable laws and rules, the owner or operator must remove and properly dispose of all solid waste from the railcar unloading area of the facility immediately after it hits the ground. By virtue of the fact that the above documented wastes were present in such a widespread area, and unloading operations had not been conducted on the day of this inspection, it indicates that insufficient effort is being made to remove solid wastes from this area of the facility. In order to prevent a similar violation in the future, the owner or operator of Penn-Ohio must remove all solid waste from the railcar unloading area as soon as it is detected on the ground.

2. **Illegal Disposal of C&DD:** During this inspection C&DD was observed illegally disposed on the ground in the railcar unloading area at this facility. The C&DD observed illegally disposed and scattered in this area was from, at a minimum, the previous day's operations. Mr. Clark verified that no unloading operations had taken place on April 21, 2007.

In accordance with OAC Rule 3745-400-01(N), "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any construction and demolition debris into or on any land or ground or surface water or into the air, except if the disposition or placement constitutes storage, reuse, or recycling in a beneficial manner.

In accordance with OAC Rule 3745-400-01(S), "Illegal disposal" means the disposal of construction and demolition debris at any place other than a construction and demolition debris disposal facility operated in accordance with Chapter 3714. of the Revised Code, and Chapters 3745-400 and 3745-37 of the Administrative Code.

Penn-Ohio is in violation because it has allowed the illegal disposal of C&DD at the railcar unloading area at its facility. Penn-Ohio's illegal disposal of C&DD at its railcar unloading area of its C&DD facility is a violation of the following:

- a. **OAC Rule 3745-400-04(B):** *"No person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code."*

In order to return to compliance with all applicable laws and rules, the owner or operator must remove and properly dispose of all C&DD from the railcar unloading area of the facility immediately after it hits the ground. By virtue of the fact that the C&DD was present in such a widespread area, and unloading operations had not been conducted on the day of this inspection, it indicates that insufficient effort is being made to remove C&DD from this area of the facility. In order to prevent a similar violation in the future, the owner or operator of Penn-Ohio must remove all C&DD from the railcar unloading area as soon as it is detected on the ground.

The following photograph shows an example of what was observed during the April 21, 2007, inspection:

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In addition to the above violations, the following observations were made during this inspection:

1. Leachate was observed dripping from the railcars loaded with C&DD onto the rail bed below the railcars. The leachate cannot be collected by the existing leachate collection system.
2. There did not appear to exist sufficient surface water control structures to prevent sediment and leachate from running into the ditch located north of the railroad tracks and off site into the waters of the state.

The nature of the violations observed during this inspection appears to indicate that the owner or operator of Penn-Ohio is either unable or unwilling to comply with Ohio's laws and rules relating to the disposal of solid waste and C&DD deposited on the ground at its railcar unloading area. 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. Penn-Ohio must take a more aggressive approach to ensure that all solid waste and C&DD is removed from the railcar unloading area as quickly as possible after it hits the ground during unloading activities.

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.

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

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