



State of Ohio Environmental Protection Agency

Northeast District Office

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

September 28, 2007

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

**CERTIFIED MAIL**

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

Dear Mr. Clark:

On September 26, 2007, I, representing the Ohio Environmental Protection Agency (Ohio EPA), conducted a comprehensive 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, hot and humid, with a temperature of approximately 90°F.

Joe Costa, representing the facility owner or operator accompanied me during the inspection.

The following violation was identified during this inspection:

1. **Solid Waste Disposal:** During this inspection prohibited waste was observed disposed at this facility. Prohibited solid waste disposed at this facility included, but was not limited to the following: a scrap tire, articles of clothing, beverage containers, food wrappers and containers, shoes, a large number of furniture cushions, toys, garden hoses, three basketballs, a mattress, a plastic bed liner from a full size Dodge truck, several chairs, a child's car seat, a Coleman cooler, curtains, what appeared to be a large acetylene tank, a large red rolling suitcase, and ironing board, and a very large red Zodiac inflatable boat.

Mr. Costa brought facility operations to a halt and deployed all employees to remove prohibited solid waste from the facility working face. During the inspection facility personnel removed the prohibited waste from the working face. The volume of prohibited solid waste removed from the working face appeared to easily exceed 10 cubic yards. The previous day's receipts indicated that 4, 086 cubic yards of debris had been disposed. As a result, up to 8.172 cubic yards of prohibited solid waste could have been removed from the working face without receiving a violation.

Penn-Ohio is in violation because it has allowed the disposal of solid waste in its facility. The volume of prohibited solid waste removed from the working face exceeded the regulatory threshold which determines when a violation is warranted. The owner or operator is not making sufficient effort to remove all prohibited wastes in the facility unloading zone, and that is making it impossible to remove the prohibited wastes from the facility's working face given the current volume of debris being accepted for disposal and the number of pickers being utilized to remove prohibited solid waste from the unloading zone and working face. 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...*
- (c) *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 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 either 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. By virtue of the fact that the above documented wastes were present in the facility working face in such large volumes, 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.

The following photograph shows one of the piles of prohibited solid waste removed from the facility working face at the time of this inspection. Due to the large size of many of the items, they should have been easily removed and properly disposed at the point of generation, the point of transfer, or at the facility unloading zone.



The following observations were made during this inspection:

1. A review of the facility's daily logs raised some serious questions that Penn-Ohio must carefully answer. It was documented that the facility is removing more prohibited solid waste from the facility working face and unloading zone that it is sending off site for proper disposal. For example, it was documented that two 40 cubic yards of solid waste were shipped to BFI on September 14, 2007. From September 17, 2007, through September 24, 2007, facility records indicate that a combined 462 cubic yards of prohibited solid waste were removed from the working face and unloading zone. On September 25, 2007, another two 40 cubic yards of solid waste were shipped to BFI. This leaves approximately 382 cubic yards of solid waste removed from the working face and unloading zone unaccounted for. The above time period is just an example, as this issue was observed to exist in previous weeks and months as well. Ohio EPA requests that Penn-Ohio provide documented proof of the whereabouts of the unaccounted solid waste which it is removing from the facility working face and unloading zone.

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2. No drag out of mud from the facility onto State Route 170 was observed.
3. No hydrogen sulfide gas odors were detected while on the landfill.

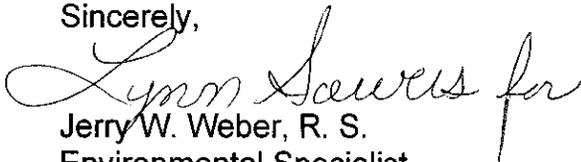
Please provide written notification to me within 15 days of receiving this letter which documents how the violation listed above has been corrected, and what measures will be implemented in the future to prevent any such recurrence of these violations.

Failure to correct the above violations and 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.

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](mailto:jerry.weber@epa.state.oh.us)."

Sincerely,



Jerry W. Weber, R. S.  
Environmental Specialist  
Division of Solid and Infectious Waste Management

JWW:cl

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