



State of Ohio Environmental Protection Agency

Northeast District Office

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

March 31, 2008

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 March 27, 2008, 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 overcast, with a temperature of approximately 40°F.

Tim Clark, representing the facility owner or operator accompanied me during the inspection.

The following violation was identified during this inspection:

1. **Weekly Cover:** During this inspection it was observed that combustible debris in portions of the landfill remained uncovered since the last inspection on December 21, 2007. Some of these areas were located in portions of the landfill where disposal has not taken place for a number of years. Other areas with uncovered combustible debris existed where cover had been applied previously, vegetation has failed, and weathering apparently caused debris to be exposed. While it was evident during this inspection that the facility operator had covered portions of the landfill where combustible debris was exposed, large areas still had not received cover soil.

Penn-Ohio is in violation because it has failed to cover and maintain cover over all combustible debris disposed within the landfill on a weekly basis. Penn-Ohio's failure to cover all combustible debris at its C&DD facility on a weekly basis is a violation of the following:

- a. **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."*

In order to return to compliance with all applicable laws and rules, the owner or operator must immediately apply cover soil to all disposed combustible debris, and continue to cover all disposed combustible debris on a weekly basis, at a minimum.

2. **Surface Water.** During this inspection multiple surface water violations were observed, including storm water violations and an apparent unauthorized discharge from the railcar unloading zone. The drainage ditch along the access road leading from the facility office up the hill to the landfill was completely filled in with mud and unable to transmit surface water. The ditch was also filled with mud and unable to transmit surface water during the last inspection of this facility.

Penn-Ohio is in violation because it failed to prevent water pollution at the facility, and it failed to control and maintain surface water structures and correct the conditions causing silting and scouring of the surface water drainage structures. Penn-Ohio's failure to prevent water pollution, to control and maintain surface water structures, and to correct the conditions causing silting and scouring of the surface water drainage structures at its C&DD facility is a violation of the following:

- a. **OAC Rule 3745-400-11(B)(16)**: *"The owner or operator shall not cause water pollution."*
- b. **OAC Rule 3745-400-11(Q)(4)**: *"The owner or operator shall control surface and ground water to minimize the generation of leachate in the following manner...If silting or scouring occurs in surface water structures, the owner or operator shall correct the conditions causing the silting or scouring and shall repair the surface water drainage structures."*

In order to return to compliance with all applicable laws and rules, the owner or operator must immediately comply with all of the requirements outlined in the November 27, 2007, Notice of Violation sent to Guy Fragle, Total Waste Logistics, Inc., from Dan Bogoevski, Ohio EPA Division of Surface Water, with the facility's NPDES permit, and with the above listed rules.

3. **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. Solid waste open dumped at this location included, but was not limited to the following: beverage containers, food wrappers, papers, mailing envelopes and toys.

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 were not being conducted at the time 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.

4. **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.

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.

5. **Leachate:** During this inspection a leachate outbreak was observed at the toe of the slope in the active licensed disposal area on the southeastern portion of the facility. Leachate was flowing into the surface water diversion ditch located outside of the debris placement area.

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Penn-Ohio is in violation because it failed to properly manage leachate at the facility. Penn-Ohio's failure to properly manage leachate is a violation of the following:

- a. **OAC Rule 3745-400-11(O)(2)**: *"If there is an outbreak of leachate at the surface, the owner or operator shall...manage and dispose the leachate in accordance with applicable regulations."*

In order to return to compliance with all applicable laws and rules, the owner or operator must properly contain the leachate before it enters the surface water control system, collect and properly dispose the leachate, and repair the leachate outbreak.

The following observations were made during this inspection:

1. C&DD unloading operations were not being conducted at the time of this inspection.
2. The C&DD rail transfer area was being reconstructed during this inspection. The old leachate collection system was being dug up and removed, and new piping and aggregate were being installed. I recommended that the facility owner or operator contact Joe Trocchio of the Northeast District Office Division of Surface Water in order to verify that the activity did not require any changes to the existing surface water permit for the facility.
3. Minimal drag out of mud from the facility onto State Route 170 was observed. Trucks carrying stone for the construction activities were observed entering and exiting the facility.
4. Hydrogen sulfide gas odors were detected while on the landfill and while observing the landfill from the access road which extends around the landfill.
5. Prohibited solid wastes were observed in the facility working face during this inspection. The prohibited solid wastes were being removed during the inspection, however, it was not possible to determine if the amount of prohibited solid waste removed exceeded the regulatory threshold which defines when a violation has occurred.

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.

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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."

Sincerely,



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

JWW:cl

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

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Sent To Tim Clark

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