



State of Ohio Environmental Protection Agency

Northeast District Office

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

April 2, 2007

RE: **MOUNT EATON LANDFILL  
NOTICE OF VIOLATION**

**CERTIFIED MAIL**

Mr. Freeman Mullet  
Mount Eaton Reclamation, Inc.  
P.O. Box 256  
Mount Eaton, Ohio 44659

Twilight Mining, Inc.  
P.O. Box 403  
Berlin, Ohio 44610

Mr. Steven Viny  
Norton Environmental Company  
6200 Rockside Woods Blvd., Suite 105  
Independence, Ohio 44131

Dear Gentlemen:

The Division of Solid and Infectious Waste Management (DSIWM), Ohio Environmental Protection Agency (Ohio EPA) conducted a partial site inspection of the Mount Eaton Landfill located at 8544 TR105, in Navarre, Ohio, on March 14, 2007. Present for the inspection were Clarissa Gereby and Judy Bowman representing Ohio EPA, and John Logsdon, representing Norton Environmental Company (NEC).

The Mount Eaton Landfill consists of two solid waste disposal units, a 38 acre capped unit, and a 14 acre unit which is currently over height and filled beyond approved limits of waste placement. For the purposes of this letter, the 14 acre unit is referred to as the "new unit" and the 38 acre unit is referred to as the "old unit."

The owner/operator is in violation of Ohio Administrative Code 3745-27 operational rules. Some of these violations have remained uncorrected since 2005. In addition, the owner/operator remains in violation of Ohio EPA's closure and financial assurance rules since at least 2005 and most likely since 2003.

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During the inspection, it was noted that soil piles to be used for cover had been placed on both the old unit and the new unit. John Logsdon explained that after the snow melt and heavy rains, erosion developed on both units. During the time period when it was dry enough to move trucks to the top of the landfill, soil (to be used for additional cover) was moved onto both units. On March 13, 2007, the erosion on the northwestern portion of the new unit of the landfill had been regraded and covered with soil. On the day of our inspection, there was no erosion apparent on the northwestern portion of the landfill, however, erosion was evident on other portions of the new unit and old unit of the landfill. No work was being conducted to correct the erosion during the time of the inspection. John Logsdon explained that it was too wet at the time to take bulldozers to the top of the landfill for regrading and placing additional soil. It was raining at the time.

Since it was apparent that efforts were underway to control the erosion, the erosion identified at the landfill as a result of the snowmelt and rainy conditions of the last several weeks, is not considered a violation for this inspection.

### **On-going violations:**

#### **Surface water management**

The owner or operator has failed to institute measures to control run off of surface water. The surface water control structures do not ensure minimal erosion. This violation was also cited in the April 21, 2006 and November 14, 2006 Notices of Violation from Ohio EPA.

The owner or operator has not maintained adequate vegetative cover on the old unit. The old unit contains many erosion rills. Mr. Logsdon stated that the area had been seeded in the fall of 2005; however, vegetation has not been established, nor was any other method of erosion control utilized until suitable vegetation is established. Surface water channels and ditches are not being maintained, and the channel on the western slope of the old unit has been breeched, allowing surface water to erode the final cover.

The owner or operator must immediately ensure that the top layer of the final cap system consists of soils capable of sustaining vegetation, minimizing erosion, and establishing vegetation.

Therefore, the owner or operator's failure to control erosion is a violation of the following:

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**OAC Rule 3745-27-11(H)(2)**: *"The owner or operator shall install the required surface water control structures including permanent ditches to control run-on and runoff and sedimentation pond(s), as shown in the final closure/post-closure plan, and as necessary, grade all land surfaces to prevent ponding of water where solid waste has been placed and institute measures to control erosion."*

**OAC Rule 3745-27-19(J)**: *"Surface water management. (1) The owner or operator shall ensure that surface water at a sanitary landfill facility is diverted from areas where solid waste is being, or has been, deposited. The owner or operator shall ensure that a sanitary landfill facility is designed, constructed, maintained, and provided with surface water control structures that control run-on and runoff of surface water. These surface water control structures shall ensure minimal erosion and infiltration of water through the cover material and cap system. These surface water control structures shall be designed in accordance with 3745-27-08 of the Administrative Code."*

**OAC Rule 3745-27-19(J)**: *"Surface water management. (3) If ponding or erosion occurs on areas of the sanitary landfill facility where waste is being, or has been, deposited, the owner or operator shall undertake actions as necessary to correct the conditions causing the ponding or erosion."*

**OAC Rule 3745-27-11(H)(1)**: *"The owner or operator shall continue to comply with rule 3745-27-19 of the Administrative Code and all monitoring and reporting activities required during the operating life of the unit(s) of the sanitary landfill facility until the closure certification is submitted and the post-closure care period begins."*

**OAC Rule 3745-27-19(B)(2)**: *"Compliance. "The owner or operator shall conduct all construction and operation at a sanitary landfill facility in strict compliance with the applicable authorizing document(s), including permit(s) to install, a plan approval, an operational report, an approved final closure plan, an alteration(s) concurred with in writing by Ohio EPA, or any authorizing document(s) listed in paragraph (I) of rule 3745-27-09 of the Administrative Code..."*

**Closure Post-Closure Plan approved May 4, 2000, Plan Sheet 7, note 1**: *"Vegetative layer, consisting of soil and vegetation, placed on top of the recompacted clay layer. The soil shall be of sufficient thickness and fertility to support its vegetation and to protect the soil barrier layer from damage due to root penetration and frost. Healthy grasses or other vegetation shall form a complete and dense vegetative cover."*

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## **Construction**

The owner or operator has not installed and maintained the surface water control structures, including permanent ditches, to control run-on and runoff. The surface water control structures have not been constructed in accordance with the Final Closure Plan approved on May 4, 2000 and the Environmental Improvement PTI approved on January 24, 1994.

The drainage channels have not been constructed and maintained in accordance with the design in the permit to install application. The facility's authorizing documents, including the 1995 PTI, Environmental Improvement PTI, and Closure Plan, specify the location and design of permanent ditches which were to be installed during operation of the facility, and the design and location of surface water control structures to be installed upon construction of the final cap system. The final cap system for the old unit was previously constructed. The owner/operator of the Mount Eaton Landfill has failed to construct and maintain surface water control structures as required by their authorizing documents and Ohio EPA regulations.

The owner or operator must control all surface water runoff from the facility. In past inspections, Ohio EPA noted that the surface water control structures were not being maintained, and documented violations of OAC Rule 3745-27-19(E)(11)(b) and OAC Rule 3745-27-19(E)(J)(1) in a May 24, 2005 NOV and November 14, 2006 NOV. The owner and operator continue to be in violation of the following regulations:

**OAC Rule 3745-27-19(E)(1)(c):** *"The owner or operator shall maintain the integrity of the engineered components of the sanitary landfill facility and repair any damage to or failure of the components. "Engineered components" include the components described in rule 3745-27-08 of the Administrative Code..."*

**OAC Rule 3745-27-11(H)(2):** *"The owner or operator shall install the required surface water control structures including permanent ditches to control run-on and runoff and sedimentation pond(s), as shown in the final closure/post-closure plan, and as necessary, grade all land surfaces to prevent ponding of water where solid waste has been placed and institute measures to control erosion."*

**OAC 3745-27-19(E)(11)(b)** *"The owner or operator shall inspect sedimentation ponds and sedimentation pond discharge structures, including pipes, ditches, and culverts at least weekly for erosion, clogging, or failure and take prompt corrective action, if necessary."*

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**OAC 3745-27-19(J)(1)** *"The owner or operator shall ensure that a sanitary landfill facility is designed, constructed, maintained, and provided with surface water control structures that control run-on and runoff of surface water."*

**OAC Rule 3745-27-11(H)(1)**: *"The owner or operator shall continue to comply with rule 3745-27-19 of the Administrative Code and all monitoring and reporting activities required during the operating life of the unit(s) of the sanitary landfill facility until the closure certification is submitted and the post-closure care period begins."*

**Permit to Install Number 02-6450** *"The permittee shall provide for the proper maintenance and operation of the municipal solid waste disposal facility in accordance with the provisions of OAC Chapter 3745-27."*

**Permit to Install Number 02-6450**: *"The proposed source shall be constructed in strict accordance with the plans, specifications, ..."*

### **Mandatory Closure**

The Mount Eaton Landfill reached all approved limits of solid waste placement prior to December 31, 2004, and potentially as early as mid 2003. When the Mount Eaton Landfill reached all approved limits of solid waste placement, the owner or operator was required to close the facility in accordance with OAC Rule 3745-27-11. The owner or operator has not initiated all final closure activities required by this rule. The owner or operator must immediately commence all final closure activities in compliance with OAC Rule 3745-27-11. Therefore, the owner or operator's failure to commence closure is a violation of the following rules:

**OAC Rule 3745-27-11(C)(2)(b)**: *"It is mandatory to begin closure activities for a noncontiguous unit(s) of a sanitary landfill facility upon the occurrence of any of the following: ...All approved limits of solid waste placement for the noncontiguous unit(s) have been reached, as specified in the plan approval, operational report, approved permit(s) to install, or other authorization of the director."*

**OAC Rule 3745-27-11(F)**: *"The owner or operator shall begin final closure activities, for all contiguous unit(s) or for each noncontiguous unit(s) of the sanitary landfill facility, not later than seven days after any of the occurrences in paragraph (C) of this rule. Final closure activities for all unit(s) of a sanitary landfill facility shall include, at a minimum, the items specified in paragraphs (G) and (H) of this rule."*

**OAC Rule 3745-27-19(B)(6)(d)**: *"The owner or operator shall comply with all of the following: (d) The final closure requirements of rule 3745-27-11 of the Administrative Code."*

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## **Final Cover**

Norton Environmental has not taken any steps whatsoever to commence construction of a final cap on the Mount Eaton Landfill. Initiation of cap construction was required within seven days of reaching final elevations of waste placement and completion was required within 180 days of closure. Based on the information submitted to Ohio EPA by Norton Environmental, final waste grades approved in Permit to Install (PTI) number 02-6450, issued to Mt. Eaton Landfill on June 7, 1995, have been reached and exceeded.

The owner or operator must immediately commence construction of the final cap system.

Therefore, the owner or operator's failure to commence construction of the final cap system is a violation of the following:

**Permit to Install Number 02-6450:** *"The proposed source shall be constructed in strict accordance with the plans, specifications, and information submitted as part of the application for this permit to the Director."*

Section VII (C)(3)(a): Leachate generation will ... be minimized by the final cover that will be placed at locations as they reach final grade." (page number OAC-20).

Section VII (C)(3)(e): Final cover on a completed upper level cell will be established as soon as possible to prevent precipitation from permeating through the refuse and vegetation established to prevent erosion." (page number OAC-24).

Section VII (C)(5): Phase Development: "Final grades of the completed cells are shown on Plan Sheets 3/H-1-2 and 3. All final grades of this cell will be covered with the final cap system." (page number OAC-28 a through j).

Section VII (C)(7)(g): Final Closure Plan: " Final closure activities shall be completed not later than 180 days after final receipt of solid waste, unless an alternate schedule has been approved by the Director of the Ohio EPA." (pg # OAC-48).

Sheet 4C of Plan Drawing, Final Grade of Solid Waste Permit.

**OAC Rule 3745-27-19(H):** *"Within seven days of reaching the approved final elevations of waste placement in a phase, or an alternate schedule approved by the director, the owner or operator shall begin constructing the final cap system by doing either of the*

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*following: (1) By constructing a cap system over the entire phase in accordance with rule 3745-27-08 of the Administrative Code as specified in rule 3745-27-11 of the Administrative Code."*

**OAC Rule 3745-27-11(G)**: *"Composite cap system. The owner or operator shall construct composite cap system in accordance with the following: (1) The cap design approved in the permit or in a subsequently approved alteration, unless paragraph (G)(2) or (G)(3) or (G)(4) of this rule applies."*

**OAC Rule 3745-27-11(H)(1)**: *"The owner or operator shall continue to comply with rule 3745-27-19 of the Administrative Code and all monitoring and reporting activities required during the operating life of the unit(s) of the sanitary landfill facility until the closure certification is submitted and the post-closure care period begins."*

**OAC Rule 3745-27-19(I)**: *"Final closure activities shall be completed not later than one hundred and eighty days after any of the occurrences in paragraph (C) of this rule, unless an alternate schedule has been approved by the director."*

### **Waste exceeds authorized final grades**

The current limits of waste placement exceed the approved limits of waste placement authorized in PTI number 02-6450. Waste has been placed outside of vertical limits of waste placement, and also appears to have been placed outside of lateral limits of waste placement. The owner or operator must immediately initiate activities to remove all waste which has been placed outside of authorized limits.

Therefore, the owner or operator's placement of waste outside of the authorized limits of waste is a violation of the following:

**Permit to Install Number 02-6450**: *"The permittee shall provide for the proper maintenance and operation of the municipal solid waste disposal facility in accordance with the provisions of OAC Chapter 3745-27."*

**OAC Rule 3745-27-19(B)(2)**: *"The owner or operator shall conduct all construction and operations at a sanitary landfill facility in strict compliance with the applicable authorizing document(s)."*

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## **Financial Assurance**

On July 19, 2006, Ohio EPA sent a Notice of Violation letter to the owner and operator of the Mount Eaton Landfill which cited violations pertaining to the information submitted in the 2005 annual report received on March 29, 2006. Among other violations, Ohio EPA cited Norton Environmental and Mount Eaton Reclamation, Inc. in violation of OAC Rule 3745-17-19(M)(6), OAC Rule 3745-27-15(D)(2), and OAC Rule 3745-27-16(D)(1) for failure to adjust the cost estimates for closure and post-closure care due to inflation and the increased cost of closure due to changes in required final closure and post-closure activities, and failure to make changes to the financial assurance instruments for closure and post-closure care. Ohio EPA's February 8, 2006 Director's Final Findings and Orders also required Norton to fund the final closure financial assurance instrument and the post-closure financial assurance instrument by April 10, 2006. The owner and operator remain in violation of the rules previously cited in the July 19, 2006 NOV, the November 14, 2006 NOV and the February 8, 2006 Director's Final Findings and Orders.

## **Annual Reports**

Norton Environmental and Mount Eaton Reclamation, Inc. are in violation of OAC Rule 3745-17-19(M)(2) for not including the illegal, unlogged waste disposed at the facility in the 2003 Annual Report and the 2004 Annual Report. Additionally, Norton Environmental and Mount Eaton Reclamation, Inc. are in violation of OAC Rule 3745-17-19(M)(3) for providing false estimates of the remaining landfill facility life, since the illegal disposed waste was not included in the estimate calculations.

## **Comments**

### **Gas Generation**

During the inspection, landfill gas odors and the sound of gas bubbling up through liquid were noted on the south side of the 38 acre capped unit. The owner or operator should investigate the source of gas and liquid and take actions necessary to control release of contaminants to air and surface water.

The owner or operator must immediately take the necessary measures, including commencing closure, to return to compliance with Ohio's solid waste laws and rules. Failure to commence closure has been cited numerous times by Ohio EPA and the Wayne County Health Department. As you know, Ohio EPA has referred Norton Environmental Company, Mount Eaton Reclamation, Inc., and Twilight Mining, Inc. to

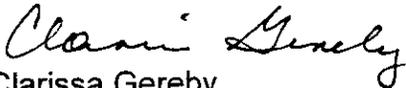
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the Ohio Attorney General's Office for enforcement action. Each day the owner or operator fails to comply with each requirement is a separate violation subject to civil penalties.

Please reply to this notice of violation within seven days as to the actions being taken to return to compliance. Among other activities, the owner or operator must construct the final cap system and all surface water control structures in accordance with PTI number 02-6450. In order to construct the final cap system at the grades authorized in the permit to install, the owner or operator must remove all waste and other material such that the final cap system can be constructed to the grades authorized in PTI number 02-6450. The owner or operator must also adequately fund financial assurance for closure and post-closure care. If you have any questions regarding this review, please do not hesitate to call Clarissa Gereby at (330) 963-1224.

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 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 for remedying conditions resulting from any release of contaminants to the environment.

Sincerely,



Clarissa Gereby  
Environmental Specialist  
Division of Solid and Infectious Waste Management

CG/cl

cc: Judy Bowman, DSIWM, NEDO  
Bruce McCoy, DSIWM, CO  
Ken Eng, Wayne County Health Department  
John Logsdon, Norton Environmental  
John Cayton, AGO  
Nicholas Bryan, AGO  
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