



State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.
Twinsburg, Ohio 44087

TELE: (330) 963-1200 FAX: (330) 487-0769
www.epa.state.oh.us

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

May 27, 2008

**RE: CITY OF ELYRIA/GARDEN STREET LF
CLASS IV COMPOST FACILITY
LORAIN COUNTY
NOTICE OF VIOLATION**

CERTIFIED MAIL

Mr. Jim Hutchson
City of Elyria
328 Broad Street
Elyria, Ohio 44035

Mr. Brian Madden
Mr. Bob Madden
Madden Bros., Inc.
66 Pearl Rd.
Brunswick, Ohio 44212

Dear Gentlemen:

On May 20, 2008, the Division of Solid and Infectious Waste Management (DSIWM), Ohio EPA conducted a site inspection of the Class IV Composting Facility located at the closed Garden Street Landfill located in Elyria, Lorain County. Present for the site inspection were Mike Stevens, Division of Surface Water and Clarissa Gereby, Division of Solid and Infectious Waste Management, representing Ohio EPA, John Sabo, representing Lorain County Health Department and David Oakes, representing Elyria City Health Department. No one representing the facility was present during the inspection.

On April 16, 2008 and April 18, 2008, I conducted inspections at the facility. A Notice of Violation was sent to you from the Division of Solid and Infectious Waste Management, Ohio EPA, on May 8, 2008.

The inspections were conducted to determine compliance with solid waste regulations and with the Ohio Administrative Code (OAC) Rule 3745-27-13 ("Rule 13") Authorization issued by Ohio EPA on January 15, 2004 to operate a class IV composting facility within the limits of waste placement of the closed Garden Street Landfill. The May 20, 2008 inspection was also conducted to determine the possibility of land application of the leachate to farm fields. A request was received by the Division of Surface Water, Ohio EPA, in May 2008 for land application of the leachate generated at the site.

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During the May 20, 2008, inspection, Ohio EPA observed the following violations:

1. **OAC Rule 3745-27-45(A)**: *“General operational requirements. The owner or operator of a composting facility shall operate the facility in accordance with the following:
(1) The owner or operator of a composting facility shall operate the facility in compliance with the applicable authorizing document(s).”*

The owner/operator is in violation of this rule because the facility is not being operated in accordance with the Rule 13 authorizing document, issued January 15, 2004. Please see violation # 5 through violations # 10 below.

2. **OAC Rule 3745-27-45(H)(3)**: *“The owner or operator of a class I, II, III or IV composting facility shall do the following:*

*(a) Manage leachate in accordance with Chapter 6111. of the Revised Code.
(b) Take action to minimize the production of leachate and control, or eliminate, ponding of leachate and the conditions that contribute to the discharge of leachate from the facility.
(c) Maintain any structures or mechanisms used for the collection or containment of leachate to prevent blockage, clogging, or breakage that may impede proper collection or containment of leachate.” and*

OAC Rule 3745-27-45(E)(3) *“The methods of composting utilized at a class IV composting facility shall enable biological decomposition and ensure control of leachate, surface water, and ponding of liquids as specified in paragraphs (G) and (H) of this rule.”*

During the inspection, many large areas of leachate accumulation were present at the compost facility (see photos #1 through #4). Since the April 18, 2008 inspection, some leachate had been removed from the site to the French Creek Wastewater Treatment Facility, however large quantities of leachate still remained on site. During the time of the May 20, 2008 inspection, no activity was taking place to remove any of the leachate from the site. Therefore, the owner/operator is in violation of this rule because action was not taken to control or eliminate the ponding of leachate and the owner/operator did not control leachate and ponding of liquids as specified in paragraphs (G) and (H) of the rule. This violation was also cited in the May 8, 2008 NOV.

3. **OAC Rule 3745-27-45(A)(4)**: *“The owner or operator shall not accept any prohibited material at the facility.” and*

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OAC Rule 3745-27-45(A)(5): *“The owner or operator shall properly manage any containers used to transport authorized materials to a composting facility that do not meet the definition of biodegradable containers as defined in rule 3745-27-01 of the Administrative Code. Such containers shall not be introduced into the composting process except at a class I composting facility where the owner or operator is mixing such containers with type J feedstocks.”*

During the inspection it was noted that prohibited materials such as scrap tires and bagged leaves were present in compost material at the facility (see photos #5 and #6). Although the facility may accept leaves in plastic bags and subsequently remove the leaves from the bags before placement into the windrows, it is a violation to place the bagged leaves into the compost windrows.

4. **OAC Rule 3745-27-45(C)(2)**: *“All reasonable measures shall be employed to prevent acceptance of prohibited material at the facility. If prohibited material is detected:*

(a) All reasonable measures shall be employed to control and remove the prohibited material from the materials placement area, including but not limited to, windrows, piles, or in-vessel composting systems.”

During the April 18, 2008, inspection it was noted that prohibited materials such as scrap tires and bagged leaves were present in compost material at the facility. This violation was cited in the May 8, 2008, NOV. The same prohibited material was still present at the facility during the May 20, 2008 inspection (see photos #5 and #6).

During the May 20, 2008, inspection, Ohio EPA observed the following violations of the Rule 13 Authorization, issued January 14, 2004:

5. Condition #1 of the Authorization states that “All on-site activities shall be accomplished in compliance with all applicable state and federal laws and regulations pertaining to environmental protection including, but not limited to, the control of air pollution, leachate, surface water run-on and run-off, and protection of ground water.”

The owner/operator is in violation of this condition because on-site activities were not accomplished in compliance with state and federal laws and regulations. The landfill cap has been disturbed and damaged by construction operations at the site. The leachate containment berm structure surrounding the windrow/compost area to contain leachate was expanded vertically at the northeast portion of the compost facility. This is the location where, during the April inspections, it was

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noted that the berm was breached at several locations allowing leachate to leave the facility. It appears that landfill cap material was scraped from the area adjacent to the berm and placed atop the old berm to increase the berm's height (see photos #7 through # 10). Brian and Bobby Madden were clearly instructed not to increase the height of the berm during my April 16, 2008 inspection. In addition, it appears that an attempt was made to drain surface water ponding which accumulated south of the compost operations and north of the mulching operations by digging a trench through the landfill cap in a southerly direction (see photos #11 and #12).

6. Condition #3 of the Authorization states that "Any solid waste that is encountered during the activities on the site shall be transported to a licensed solid waste facility for disposal."

The owner/operator is in violation of this condition due to the presence of scrap tires and bagged leaves at the facility (see photos #5 and #6). The owner/operator must remove the prohibited material from the facility and properly dispose of at a licensed facility. Disposal receipts for the prohibited material must be sent to this office, to my attention. This violation was also cited in the May 8, 2008 NOV.

7. Condition #4 of the Authorization states that "Drainage must be controlled to prevent any ponding or leachate run-off from the site; and surface water drainage must be diverted away from material placement areas."

The owner/operator is in violation of Condition #4 due to the presence of ponding of leachate. Large ponds of leachate were located at the northeastern, northwestern, and southwestern portion of the composting area and southwestern (see photos #1 through #4). Surface water has not been properly diverted to prevent ponding in the composting and mulching area. This violation was also cited in the May 8, 2008 NOV.

8. Condition #5 of the Authorization states that "Any leachate produced on site shall be contained for reintroduction into the composting process or transported and discharged to an approved treatment facility. "

The owner/operator is in violation of Condition #5 because the leachate generated has not been contained for reintroduction into the composting process nor has the leachate been transported and discharged to an approved treatment facility. Although some of the leachate has been removed, leachate has been accumulating at the site. See violation # 2, above. This violation was also cited in the May 8, 2008 NOV.

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9. Condition #7 of the Authorization states that "This approval grants authorization to conduct construction and composting activities at the Garden Street Landfill in accordance with the October 16, 2003, November 7, 2003, and November 18, 2003 submittals only. All activities must be conducted in strict accordance with the plans, specifications, and information submitted as part of the request. There may be no deviation from the approved plans without the express, written approval of the Ohio Environmental Protection Agency (Ohio EPA). Any future activities on the facility may require additional Ohio EPA approval."

The owner/operator is in violation of Condition #7 because activities at the facility were not conducted in strict accordance with the plans, specifications, and information submitted as part of the request. The extent of the existing compost piles exceeds the compost area limits identified in the site plan of the authorization. Leachate management at the facility is not being conducted in strict accordance with the plans, specifications and information submitted as a part of the authorization request. The windrow construction and turning frequency does not enable controlled biological decomposition under primarily aerobic conditions to be maintained throughout the compost process and therefore, is not in strict accordance with the plans, specifications and information submitted as a part of the authorization request. In addition, the landfill cap has been breached. The leachate containment berm structure surrounding the windrow/compost area to contain leachate was expanded vertically at the northeast portion of the compost facility. It appears that landfill cap material was scraped from the area adjacent to the berm and placed atop the old berm to increase the berm's height (see photos #7 through #10). The Madden Brothers were clearly instructed not to increase the height of the berm during my April 16, 2008 inspection. In addition, a trench was dug through the cap in an attempt to drain surface water ponding which accumulated south of the compost operations and north of the mulching operations (see photos #11 and #12).

10. Condition #8 of the Authorization states that "Any portions of the landfill where the final cover system has been disturbed or damaged by construction or operation activities shall have a final cover system re-established in accordance with the capping requirements established in OAC Rule 3745-27-10 as effective on July 29, 1976."

The final cover system has been disturbed and damaged by construction activities at the facility. The landfill cap has been breached in two distinct areas of the facility. (1) The leachate containment berm structure surrounding the windrow/compost area to contain leachate was expanded vertically at the northeast portion of the compost facility. It appears that landfill cap material was

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scraped from the area adjacent to the berm and placed atop the old berm to increase the berm's height (see photos #7 through #10). The Madden Brothers were clearly instructed not to increase the height of the berm during my April 16, 2008 inspection. (2) An attempt was made to drain surface water ponding which accumulated south of the compost operations and north of the mulching operations by digging a trench through the landfill cap in a southerly direction (see photos #11 and #12).

The final cover system must be re-established in accordance with the capping requirements established in OAC Rule 3745-27-10, as effective on July 29, 1976. Please provide documentation as to what actions will be taken to re-establish the cap pursuant to the rule requirements.

I received a correspondence from Mr. Brian Madden, dated May 19, 2008, which addresses the May 8, 2008 NOV. The letter states that the miscellaneous debris has been removed and disposed of properly. The items of solid waste have not been properly removed as stated in the letter. During the May 20, 2008 inspection, I photo-documented the **same** solid waste items that were identified in the May 8, 2008 NOV. These items include the large area of bagged waste located at the northern portion of the compost area, and the tire photographed during both the April and May inspections. The letter additionally states that "necessary repairs were made to the berm surrounding the compost area to eliminate any threats of leachate contamination." I had clearly indicated to Messrs. Madden not to increase the height of the berm, stating that increasing the height of the berm was not an acceptable control measure for the leachate. Leachate must be either removed to a WWTP or recirculated into the compost material as per the authorizing document. This matter is further compounded by the fact that landfill cap material was used to build the berm and therefore, the landfill cap is now compromised and must be reestablished per rule requirements. The letter further states that "at current, the detention area on the cap has been pumped down leaving virtually no leachate accumulation..." The letter was dated May 19, 2008 and I conducted my inspection on May 20, 2008 at 9:30 am. From the photos I am providing it is clear to see that large volumes of leachate still remain on site.

Please correct the above violations immediately, and notify me, in writing by June 12, 2008, as to what corrective actions have been taken to return the facility to compliance.

Previous Notices of Violation (NOV) have been issued to the Elyria City Landfill Class IV Composting Facility located at the closed Garden Street Landfill for violations related to leachate and open dumping (June 10, 2004 NOV for leachate violations and landfill cap damage, July 25, 2008 NOV for landfill cap damage, March 23, 2006 NOV for leachate and open dumping violations, June 15, 2007 NOV for leachate and open dumping, May 8, 2008 NOV for leachate and solid waste violations). In addition, NOV's have been

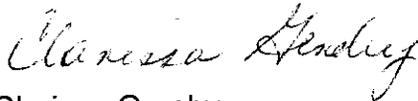
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issued to the facility related to breaching of the landfill cap and discharge of leachate to surface waters (July 25, 2005). **Failure to correct the above violations and operate this facility in accordance with all applicable laws and regulations could result in escalated enforcement action being taken against the owner or operator of this facility by Ohio EPA and/or the Elyria City Health Department.**

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 entity from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act or the Resource Conservation and Recovery Act, or the Comprehensive Environmental Response, Compensation, and Liability Act or from other applicable requirements for 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) 963-1224.

Sincerely,



Clarissa Gereby
Environmental Scientist
Division of Solid and Infectious Waste Management

CG:cl
Attachments

cc: David Oakes, Elyria City Health Department
Kristi Parsons, Elyria City Health Department
Angel Arroyo-Rodriguez, DSIWM, CO
Jim Irwin, DERR, NEDO
Mike Stevens, DSW, NEDO
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Sent To: Brian Madden
 Street, Apt. No. or PO Box No.: Bob Madden
 City, State, ZIP+4: Madden Bros Brunswick, OH

PS Form 3800, June 2002 See Reverse for Instructions

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1. Article Addressed to:

Mr. Brian Madden
 Mr. Bob Madden
 Madden Bros., Inc.
 66 Pearl Rd.
 Brunswick, Ohio 44212

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