



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

January 22, 2008

**RE: 5862 CLAY PLANT ROAD
WAYNE COUNTY
NOTICE OF VIOLATION**

CERTIFIED MAIL

Charles R. Wood
3716 S. Elyria Road
Shreve, Ohio 44676

Dear Mr. Wood:

On January 14, 2008, Laura Weber, representing the Division of Surface Water (DSW), and I, representing the Division of Solid and Infectious Waste Management (DSIWM), Ohio EPA conducted a site inspection at 5862 Clay Plant Road located in Plain Township in Wayne County. The inspection was conducted as a follow-up to an October 3, 2007 site inspection conducted by Kenneth Eng from the Wayne County Health Department and John Hujar and myself from the Ohio EPA. While at the site on October 3, 2007, it was observed that multiple windrows and large piles of animal manure mixed with straw were being composted at the property. On December 4, 2007, a Notice of Violation (NOV) was sent to you by the Wayne County Health Department, notifying you of the violations observed at the site during the October 3, 2007 inspection. The violations included establishing and/or operating a class II, III, or IV composting facility without first submitting the required notification to Ohio EPA and open dumping of solid waste at the site.

The January 14, 2008 inspection was conducted to determine compliance with Ohio Administrative Code (OAC) Chapters 3745-1, 3745-27 and 3745-37 and ORC 3734 and 6111. While at the site, it was observed that the windrows and piles of manure observed during the October 3, 2007 inspection were still present at the site. In addition to the manure waste present, a large quantity of leachate was observed, flowing from the manure piles and windrows to a ponded area located directly to the east of the placed manure. No leachate management system structures were in place. The water in the pond discharges to the Kiser ditch, which eventually enters the Mohican River. Photos taken during this inspection are included in this correspondence.

The Flood Insurance Rate Map (FIRM), prepared by the Federal Emergency Management Agency (FEMA) for Wayne County, Village of Shreve and unincorporated areas, identify the property located at 5862 Clay Plant Road to be in the 100- year floodplain.

Ohio EPA, DSIWM observed the following violations during the January 14, 2008 inspection:

1. **Ohio Administrative Code (OAC) 3745-27-05 (A)(3)**: "Disposal of solid waste under Chapter 3734. of the Revised Code shall only be by the following methods or combination thereof: (3) Composting at a composting facility licensed or registered in accordance with section 3734.05 of the Revised Code."

A facility license or registration has not been issued to the owner/operator of the composting operation at the site. Therefore, the owner or operator of this facility violated this rule by disposing of solid waste by composting at a facility not licensed or registered in accordance with section 3734.05 of the Revised Code.

2. **Ohio Revised Code (ORC) 3734.03**: "No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection..."

The facility does not have a registration for a Class III Composting facility, and/or a registration and license for a Class II Composting facility. Therefore, the owner or operator of this facility violated this rule by disposing of solid waste by open dumping.

3. **Ohio Administrative Code (OAC) 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."

The facility does not have a registration for a Class III Composting facility, and/or a registration and license for a Class II Composting facility. Therefore, the owner or operator of this facility violated this rule by disposing of solid waste by open dumping.

1. **Ohio Administrative Code (OAC) 3745-27-41(A)**: "No person shall establish or operate a class II, III, or IV composting facility without first submitting the notification required by paragraph (D) or (E) of this rule."

A class II or class III composting facility had been established at the property located at 5862 Clay Plant Road without first submitting the notification required by paragraph (D) or (E) of this rule. Therefore, the owner or operator of this facility is in violation of this rule.

4. **Ohio Administrative Code (OAC) 3745-27-45(A)(2)**: "The owner or operator of a class II, III, or IV composting facility shall meet the registration requirements prior to initiating operations at the facility and shall maintain status as a "registered composting facility," in accordance with rule 3745-27-41 of the Administrative Code, in order to continue operations at the facility."

The owner or operator did not meet the registration requirements prior to initiating operations at the facility. Therefore, the owner or operator of this facility is in violation of this rule.

5. **Ohio Revised Code (ORC) Chapter 6111.04**: " "(1) No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state. (2) Such an action prohibited under division (A)(1) of this section is hereby declared to be a public nuisance."

It was noted during the inspection that a large quantity of leachate was flowing from the manure piles and windrows into a ponded area located directly to the east of the placed manure. No leachate management system structures were in place. The water in the pond discharges to the Kiser ditch, which eventually enters the Muddy Fork of the Mohican River.

The owner or operator placed solid waste in a location where it caused pollution of the waters of the state. Therefore, the owner or operator of this facility is in violation of this rule.

To achieve compliance, the facility must contain all leachate on site. All collected leachate must be containerized and transported to a licensed wastewater treatment facility for treatment. Treatment receipt copies must be sent to Ohio EPA and Wayne County Health District. Please describe what interim and permanent measures will be utilized to comply with ORC 6111.04.

If you intend to submit notification as required by OAC 3745-27-41(A) to obtain a license to operate and/or registration to conduct composting operations at the site, please be aware that, pursuant to Ohio Administrative Code (OAC) Rule 3745-27-45 (M)(3) "*For a class II or III composting facility, the materials placement areas and leachate management system of the facility shall not be located in a regulatory flood plain as defined in rule 3745-27-01 of the Administrative Code.*" A "regulatory floodplain" is defined in OAC 3745-27-01(R)(5), as

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"an area covered by a one hundred year flood as depicted on a flood insurance rate map published by the federal emergency management agency." As stated above, the FEMA map identifies the property located at 5863 Clay Plant Road to be in a regulatory floodplain.

In addition to the above identified solid waste violations, surface water violations were also observed during the site inspection by Laura Weber of the Division of Surface Water. An NOV from the Division of Surface Water will be forthcoming detailing the observed surface water violations identified at the site.

In order for the facility owner or operator to return to compliance with ORC Chapter 3734 and OAC 3745-27, all solid waste must be immediately removed from the site pursuant to OAC 3745-27-05(C), which states that, *"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."*

Please correct the above violations immediately, and notify me in writing within 30 days of the receipt of this NOV, that the violations have been corrected. In addition, please submit verification that the solid waste has been properly disposed of at a licensed solid waste disposal facility.

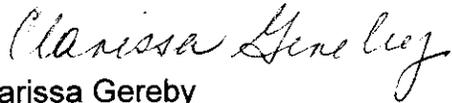
Failure to correct the above violations and operate this facility in accordance with all applicable laws and regulations could result in escalated enforcement action being taken against the owner or operator of this facility by Wayne County Health Department and/or the Ohio EPA.

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 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.

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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: Loretta Firis, Wayne County Health Department
Laura Weber, DSW, NEDO
File: [Tukel/COMP/Wayne County/CORR/85]

