Ohio | Environmental Protection Agency

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

Re: Lake Seneca Property Owners Association
Hazardous Waste
Williams County
Notice of Violation
OHR000165423

September 28, 2011

Mr. David Duebner, LSPOA President
475 Seneca Isle Drive
Montpelier, Ohio 43543

Dear Mr. Duebner:

On September 7, 2011, Rick Hassinger and I investigated a report we received from the Ohio Department of Natural Resources (ODNR) at the property you manage (Lake Seneca community) located at 233 Seneca Drive, Montpelier, Ohio. This report was received by the Ohio EPA on August 23, 2011. The report received from ODNR stated on August 8, 2011, they investigated an incident concerning some fuel that had been dumped from a dredging project that Lake Seneca Property Owners Association (LSPOA) was conducting. Mr. James Delcamp, Treasurer of LSPOA, stated in this report that on July 11, 2011, some volunteers for LSPOA were conducting a dredging project at Lake Seneca. The volunteers mistakenly put regular gasoline into the dump truck which runs on diesel. The truck began to run rough and when the volunteers realized their error, they drained the gasoline from the dump truck onto the ground at the dredge pit. The amount of gasoline dumped was approximately 25 gallons. Upon your discovery of this incident, you instructed the volunteers to immediately clean up all impacted soil and place the contaminated soil on a tarp and cover the soil pile with a tarp. During his investigation, Mr. Robert Radcliff, the ODNR Wildlife Officer Supervisor that conducted this investigation, observed what appeared to be two dump truck loads of contaminated soil on and covered by tarps. ODNR concluded this was not an issue for them since it did not appear that any material had entered any waters of the state nor were any wildlife harmed. Thus, ODNR forwarded this report to Ohio EPA. This letter will explain the violation we found as a result of our investigation and what you need to do to correct this violation.

Rick Hassinger set up an appointment with Mr. Delcamp and Mr. John Halderman, trustee for LSPOA on September 7, 2011, to meet to discuss this incident. We met at the Lake Seneca vacant lot 882 where the contaminated soil is piled.

Mr. Halderman and Mr. Delcamp stated the following: all the contaminated soil is sealed in plastic (around and underneath); they dug up the soil after the spill until they "didn't smell anything"; that LSPOA would like to leave the soil sit for several years, then test the soil, and if it is below any type of regulatory levels, then LSPOA would like to utilize the soil – possibly on the road as dirt fill; and that the spill of gasoline was never near the water.

Northwest District Office
347 North Dunbridge Road
Bowling Green, OH 43402-9398

419 | 352 8461
419 | 352 8468 (fax)
www.epa.ohio.gov

We saw the pile of contaminated soil with the tarps over it. During the investigation, I gave Mr. Delcamp and Mr. Halderman a list of commercial environmental laboratories, a sheet with hazardous waste generator categories and some information of the regulation of soil movement from Ohio EPA's Answer Place website.

LSPOA is a property owner's association which manages the residences around the Lake Seneca community. LSPOA is not a generator of hazardous waste. LSPOA was conducting a routine dredging operation at Lake Seneca when this incident occurred.

On September 21, 2011, I left you a voice message stating that LSPOA would be required to sample the pile to evaluate the pile to determine if it is hazardous or not [or LSPOA could choose to use generator knowledge to send it off as hazardous waste (D008, D018) without sampling], I inquired as to the exact date the pile was created, and I stated that you may need to request a 30-day extension for your waste pile if, based on sampling, this pile is determined to be hazardous so that LSPOA would not be storing a hazardous waste for greater than 90 days.

I found the following violation of Ohio's hazardous waste laws. In order to correct this violation you must do the following and send me the required information *within 30 days* of your receipt of this letter:

1. Waste Evaluation.
   OAC Rule 3745-52-11

   Any person who generates a waste must determine if that waste is a hazardous waste in accordance with the criteria for hazardous waste as set forth in Chapter 3745-51 of the Administrative Code.

   LSPOA has failed to evaluate the gasoline-contaminated soil that was generated from the clean-up of approximately 25 gallons of gasoline that was drained from a dump truck onto the soil. This gasoline-contaminated soil waste has been piled onto a tarp and covered.

   To properly evaluate the above waste stream, LSPOA must sample the waste pile to determine the Toxicity Characteristic Leaching Procedure (TCLP) concentrations of the Resource Conservation and Recovery Act (RCRA) **metals and benzene (D018)** and any other **volatile organic compounds** following the methods as outlined in U.S. EPA's SW-846, in light of the materials or the processes used.

   - To abate this violation, LSPOA must submit the analytical information to me. Your results must document if the waste is hazardous or not and, if hazardous, whether it is restricted from land disposal. If it is hazardous, you must explain what treatment, storage, or disposal facility you will send it to. If the waste is hazardous, I will determine the status of your compliance with other hazardous waste laws and notify you of my findings in a separate letter.

- In addition please submit to me a summary outlining how you will avoid having such an incident in the future.

- In lieu of a waste evaluation which includes sampling, LSPOA has the option of utilizing generator knowledge to determine the hazardous waste characteristics for at least benzene (D018) and lead (D008) due to the presence of gasoline. If you choose this option, then the hazardous waste must *immediately* be transported by a permitted hazardous waste hauler to a permitted hazardous waste treatment, storage or disposal facility (TSDF). LSPOA may not, however, call this material a non-hazardous waste unless a proper waste evaluation which includes sampling is conducted (and based on this analysis the waste is determined to be non-hazardous).

*If any sampling is performed, please notify me at least seven days prior to taking the samples so that I or an Ohio EPA representative may be present.*

I have enclosed the fact sheets Identifying your Hazardous Waste and Use of Generator Knowledge In Complying with OAC Rule 3745-52-11 *Hazardous Waste Evaluation* which you may find useful. I have also enclosed a list of commercial environmental laboratories (this was also provided to Mr. Delcamp during the 9-7-11 site visit).

In addition, I have enclosed page 106 from the document RCRA Waste Sampling Draft Technical Guidance – Planning, Implementation and Assessment – August 2002, which provides information pertaining to sampling of waste piles (7.1.2.6 Waste Piles). Please reference this as well as the other references cited on this page for the proper sampling of a soil waste pile. Here is the link to the entire sampling guidance document: http://www.epa.gov/osw/hazard/testmethods/sw846/pdfs/rwsdtg.pdf

On September 26, 2011, we spoke via telephone. The gasoline was dumped on the soil on July 11, 2011. You stated that you believed the contaminated soil was dug up approximately a week or so after this date. Thus, the waste pile was generated roughly on July 18-19, 2011.

LSPOA has created a waste that must be evaluated to determine whether it is hazardous or not. A generator of hazardous waste of more than 1000 kg (2200 lbs or roughly 5.5 drums) in one month (or at one time) is considered a large quantity generator (LQG) of hazardous waste. Upon waste generation, the LQG only has 90 days to ship this waste off-site. So, for example, if LSPOA dug up the soil on July 19, 2011, and based on proper waste analysis conducted through sampling it is determined that this pile is hazardous waste, LSPOA would only have until October 17, 2011, to have this hazardous waste transported by a permitted hazardous waste hauler to a permitted TSDF. I have also enclosed a sheet with hazardous waste generator categories and hazardous waste characteristics (this was also provided to Mr. Delcamp during the 9-7-11 site visit) and a list of Ohio Commercial Facilities Accepting Hazardous Waste.

I would highly recommend that LSPOA go ahead and apply for a 30-day extension for storage of hazardous waste *just in case* their waste piles are determined to be a hazardous waste. This needs to be requested before the 90-day storage limit expires on October 17, 2011. This would give LSPOA extra time to sample, get the analysis to determine if this material is hazardous or not and then set up for the transport and disposal at a permitted TSDF (if the waste is hazardous).

Please address this extension request letter to the Director of the Ohio EPA, P.O. Box 1049, Columbus, OH 43216-1049 and also cc: me a copy at the Ohio EPA, NWDO, 347 N. Dunbridge Road, Bowling Green, OH 43402. Please state within your letter the unforeseen, temporary, and uncontrollable circumstances of why the hazardous waste must remain on-site for longer than 90 days. I have enclosed a letter dated October 4, 2007, pertaining to the issue of storage extension requests.

If your waste is determined to be hazardous and if you do not request this extension (and/or if you are not approved for this extension by the Ohio EPA), and you do not have this waste shipped off-site within 90 days of your generation of this waste, you may be in serious violation of Ohio's hazardous waste laws for the illegal storage of a hazardous waste. Please call me if you would like to discuss this extension request letter.

In addition, if LSPOA decides to sample, I would highly recommend that LSPOA conduct the sampling of the waste pile as soon as possible and likewise request an expedited analysis of their samples.

If your waste is determined to be non-hazardous based upon a proper waste evaluation, then I will notify you of any additional requirements you may be subject to through the Division of Materials Waste Management (solid waste) and the Division of Surface Water.

On September 26, 2011, via email I sent you information pertaining to waste evaluation, waste pile sampling, a list of TSDFs, a list of commercial laboratories and 30-day extension information (the same information enclosed with this letter).

Ohio EPA will issue an EPA ID number to track our investigation activity at LSPOA. You cannot use this number for manifesting hazardous waste shipments. If you want to use an EPA ID number for manifesting and other hazardous waste, used oil or universal waste activities, you must complete and submit a Notification of Regulated Waste Activity form (*EPA Form 9029 (Rev. 9/2010)* to Ohio EPA. This form is available on our Web page at http://www.epa.state.oh.us/Default.aspx?tabid=3915 or you can call me or the Division of Materials and Waste Management, Central Office at (614) 644-2621 and we will mail you a copy.

The Division of Materials and Waste Management (DMWM) has created an electronic news service to provide you with quick and timely updates on events and news related to hazardous waste activities in Ohio. If you haven't already, we encourage you to sign-up for this free service. You can find more information at the following Web link http://ohioepa.custhelp.com/cgi-bin/ohioepa.cfg/php/enduser/doc_serve.php?2=subscriptionpage. Please feel free to share this information with your colleagues.

Enclosed you will find a copy of the checklist that I completed during the inspection. Please address all correspondence to Amber Hicks, Ohio EPA, 347 N. Dunbridge Road, Bowling Green, Ohio 43402. Should you have any questions, please feel free to call me at (419) 373-3082 or email at amber.hicks@epa.ohio.gov.

You can find copies of the rules and other information on the division's web page at http://www.epa.ohio.gov/dmwm.aspx.

Sincerely,

Amber Hicks

Amber M. Hicks
Division of Materials and Waste Management

/cs

Enclosures

pc: Colleen Weaver, DMWM, NWDO
Cindy Lohrbach, DMWM, NWDO
DMWM-HW, NWDO File: Williams County General

ec: Amber Hicks, DMWM, NWDO
lspoafun@hotmail.com

**NOTICE:**
Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with all applicable regulations.

| Send to Central Office ☒ | Ohio Environmental Protection Agency<br>**RCRA SUBTITLE C SITE IDENTIFICATION/VERIFICATION FORM** | For Ohio EPA use only |
|---|---|---|

Completed verification forms required to be submitted to CO should be e-mailed to brad.hauser@epa.state.oh.us.

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **Site EPA ID No.**<br>**Site Name** | EPA ID Number:<br>Name: **Lake Seneca Property Owners Association, Inc.** | | | | Website: **www.lakeseneca.org** (Optional) | | | |
| **Site Location Information** | Street Address: **233 Seneca Drive** | | | | | | | |
| | City, Town, or Village: **Montpelier** | | | | State: OH | | | |
| | County Name: **Williams** | | | | Zip Code: | | | |
| **Site Land Type** (check only one) | Private ☒ | County ☐ | District ☐ | Federal ☐ | Indian ☐ | Municipal ☐ | State ☐ | Other ☐ |
| **NAICS code(s)** www.census.gov/epcd/www/naics.html | | | | | | | | |

| | | | |
|---|---|---|---|
| **Facility Representative**<br>Additional names can be recorded in number 12 | First Name: **David** | MI: | Last Name: **Duebner** |
| | Title: **President** | | |
| | Phone Number: **419-346-3357** | Phone Number Extension: | |
| | E-Mail Address: | | |
| Only provide address information if it is different than the site address | Fax Number: | Fax Number Extension: | |
| | Street or P.O. Box: | | |
| | City, Town or Village: | | |
| | State: | Zip Code: | |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| **Legal Owner And Operator of the Site:** List Additional Owners and/or Operators in the Comment Section or on another copy of this form page | Name of Site's Legal Owner: | | | Date Became Owner (mm/dd/yyyy): | | | | |
| | Owner Type: | Private ☐ | County ☐ | District ☐ | Federal ☐ | Indian ☐ | Municipal ☐ | State ☐ | Other ☐ |
| | Street or P.O. Box: | | | | | | | |
| | City, Town or Village: | | | Owner Phone #: | | | | |
| | State: | | | Country: | | Zip Code: | | |
| | Name of Site's Operator: | | | Date Became Operator (mm/dd/yyyy): | | | | |
| | Operator Type: | Private ☐ | County ☐ | District ☐ | Federal ☐ | Indian ☐ | Municipal ☐ | State ☐ | Other ☐ |
| | Street or P.O. Box: | | | | | | | |
| | City, Town or Village: | | | Operator Phone #: | | | | |
| | State: | | | Country | | Zip Code: | | |

**VIOLATIONS CITED?** ☒ Yes ☐ No

**TYPE OF HANDLER - MARK "X" AS APPROPRIATE**

| | | |
|---|---|---|
| ☐ Not a HW Generator | ☒ UNKNOWN:<br>Cited for violation of 3745-52-11 | ☐ Large Quantity Generator (LQG) |
| | ☐ Short-Term/Temporary Generator (generates from a short-term or one-time event and not from on-going processes). *Check the box for the applicable generator status and provide a comment.* | ☐ Small Quantity Generator (SQG) |
| | | ☐ Conditionally Exempt Small Quantity Generator |
| | | ☐ U.S. Importer of Hazardous Waste |
| | | ☐ Mixed Waste (Hazardous and Radioactive) Generator |

**TYPE OF REGULATED WASTE ACTIVITY (MARK "X" IN ALL OF THE APPROPRIATE BOXES)**

- ☐ Hazardous Waste Transporter
- ☐ Hazardous Waste Transfer Facility
- ☐ Treater, Storer or Disposer of Hazardous Waste
- ☐ Recycler of Hazardous Waste
- ☐ 72-Hour Recycler
- ☐ Exempt Boiler and/or Industrial Furnace
  - ☐ Small Quantity On-Site Burner Exemption
  - ☐ Smelting, Melting, Refining Furnace Exemption
- ☐ Underground Injection Control Facility
- ☐ Receives Hazardous Waste from Off-site

**UNIVERSAL WASTE ACTIVITIES (INDICATE TYPES OF UNIVERSAL WASTE MANAGED (CHECK ALL BOXES THAT APPLY)**

- ☐ Small Quantity Handler of Universal Waste
- ☐ Large Quantity Handler of Universal Waste (accumulates 5,000 kg. or more)
- ☐ Destination Facility for Universal Waste

**CHECK ALL BOXES BELOW THAT APPLY FOR THE TYPES OF UNIVERSAL WASTE THE FACILITY MANAGES**

- ☐ Batteries
- ☐ Pesticides
- ☐ Mercury containing equipment
- ☐ Lamps

**USED OIL ACTIVITIES (INDICATE TYPE(S) OF ACTIVITY(S)**

- ☐ Used Oil Generator
- ☐ Used Oil Transporter
- ☐ Used Oil Transfer Facility
- ☐ Used Oil Processor
- ☐ Used Oil Re-refiner
- ☐ Off-Specification Used Oil Burner
- ☐ Used Oil Fuel Marketer who directs shipment of Off-Spec Used Oil
- ☐ Used Oil Fuel Marketer who first claims the Used Oil meets the specifications

**Eligible Academic Entities with Laboratories:** Facility has previously notified that they are opting into managing laboratory hazardous waste pursuant to OAC rules 3745-52-200 through 3745-52-216. Check the box(es) below to indicate the laboratory type.

- ☐ College or University
- ☐ Teaching hospital that is owned by or has a formal written affiliation agreement with a college or university
- ☐ Non-profit Institute that is owned by or has a formal written affiliation agreement with a college or university

**Waste Codes for Federally Regulated Hazardous Wastes.** Please list the codes for the federally regulated hazardous waste handled at the site. List them in the order they are presented in the regulations (e.g., D001, D003, F007, U112). Use an additional page or list them in the comments if more space is needed. If the waste codes are the same as listed in the most recent RCRAInfo source record, you do not need to list them. Instead just indicate the date of the most recent source record.

**COMMENTS: USE THIS AREA TO DESCRIBE WHETHER THE INSPECTION WAS ANNOUNCED, WHETHER THE WASTE IS STORED IN TANKS OR CONTAINERS, ETC.**

| | | | |
|---|---|---|---|
| Announced | ☐ Yes | ☒ No | Additional Facility Representatives: **James Delcamp; John Halderman** |
| Tanks | ☐ Yes | ☒ No | |
| Containers | ☐ Yes | ☒ No | |

| Name of Inspector(s) | Name of Inspector(s) | Date of Inspection/Time (mm/dd/yyyy) (hh:mm) |
|---|---|---|
| **Amber Hicks** | **Rick Hassinger** | **9-7-11 11:10** |

**Comments:**

**LSPOA is a property owner's association which manages the residences around Lake Seneca community. LSPOA is not a generator of hazardous waste. LSPOA was conducting a routine dredging operation at Lake Seneca when some volunteers for LSPOA mistakenly put regular gasoline into the dump truck which runs on diesel. The truck began to run rough and when the volunteers realized their error, they drained the gasoline from the dump truck onto the ground at the dredge pit. The amount of gasoline dumped was approximately 25 gallons. The gasoline contaminated soil was cleaned up and all impacted soil and was placed the on a tarp and the contaminated soil waste pile was covered with a tarp. LSPOA has been cited for 52-11 and must evaluate the contaminated soil waste pile to determine if it a hazardous waste.**