



State of Ohio Environmental Protection Agency

**Southeast District Office**

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

October 3, 2008

RE: **JEFFERSON COUNTY**  
~~SITE~~ **PINE HOLLOW C&DD**  
FAC

Robert S. Vukelic  
RSV Incorporated  
531 North 4th St.  
Steubenville, Ohio 43952

Dear Mr. Vukelic:

On September 24, 2008, I conducted an inspection of your unlicensed Pine Hollow waste disposal facility located at 906 Backbone Ridge Road, Steubenville, Ohio. This inspection was conducted to determine your compliance with Ohio's solid waste and construction and demolition debris (C&DD) regulations and law in the Ohio Revised Code (ORC) and the Ohio Administrative Code (OAC). This visit was also intended to determine your compliance with the Final Appealable Order issued by Judge Mascio of the Court of Common Pleas in Jefferson County on December 12, 2002. On January 13, 2006, the Seventh District Court of Appeals issued a ruling on motions filed by the State of Ohio and RSV, Inc. I was accompanied by Erika Battistel of the Jefferson County Health Department during this inspection.

During this inspection, I observed that vegetation is well established over much of the facility. The western surface water diversion appeared to be diverting water from upgradient of your property and discharging it below the area of waste placement.

Please be advised that you continue to be in violation for the following:

**Judge Mascio's December 12, 2002, Ruling**

Judge Mascio granted judgment in favor of the State of Ohio and awarded penalties totaling \$413,827.00. The January 13, 2006, ruling by the Seventh District Court of Appeals upheld much of this ruling as detailed below.

**Count One-Unlawful Open Dumping**

Judge Mascio's December 12 ruling ordered you to pay a fine of \$10,910.00 for violations of ORC Section 3734.03 and OAC Rule 3745-27-05(C). This ruling was upheld by the Court of Appeals. To date, the State of Ohio has not received payment of this fine.

**Count Four-Failure To Prepare a Monitoring Plan/Failure to Conduct Monitoring**

Judge Mascio's ruling ordered you to pay \$18,970.00 for failing to develop and implement a surface water and ground water monitoring plan in violation of OAC Rule 3745-400-11(B)(12). This ruling was upheld by the Court of Appeals. The State of Ohio has not received payment of this penalty to date.

**Count Five-Unlawful Water Pollution**

Judge Mascio's December 12 ruling ordered you to pay \$11,420.00 for violating ORC Section 6111.04 and OAC Rule 3745-400-11(B)(16). This ruling was upheld by the Court of Appeals. To date, the State of Ohio has not received payment of these fines.

**Count Six-Failure to Construct a Leachate Collection System**

Judge Mascio ordered you to pay a fine totaling \$3,650.00 for failing to construct a leachate collection system in violation of OAC Rule 3745-400-11(B)(8). This ruling was upheld by the Court of Appeals. To date, the State of Ohio has not received payment of this penalty. Judge Mascio also ordered you to remove all debris in an expansion area to the previous boundaries that existed prior to December 22, 1999. Judge Mascio further ordered you to install a leachate collection system in this area if debris was not removed within 90 days of his ruling. Since debris was not removed, a leachate collection system along the east boundary of the area of waste placement is now required.

**Count Seven-Failure to Maintain Permits and Authorizations**

Judge Mascio's ruling ordered you to pay a fine of \$2,055.00 for failing to maintain all necessary permits for the Pine Hollow facility in violation of OAC Rules 3745-400-11(C)(2) and 3745-400-11(D)(5). This ruling was upheld by the Court of Appeals. To date, the State of Ohio has not received payment of this penalty.

**Count Eight-Unlawful Acceptance of Solid Waste**

Judge Mascio's ruling ordered you to pay a fine of \$44,100.00 for unlawful acceptance of solid waste in violation of 3745-400-11(F). This ruling was upheld by the Court of Appeals. To date, the State of Ohio has not received payment of this penalty.

**Count Twelve-Unlawful Clipping of Debris**

Judge Mascio's ruling ordered you to pay a fine of \$537.00 for violations of OAC Rule 3745-400-11(F)(4)(c). This ruling was upheld by the Court of Appeals. To date, the State of Ohio has not received payment of this fine.

**Count Sixteen-Failure to Divert Surface Water**

The court determined that you illegally failed to divert surface water around your facility in violation of OAC Rule 3745-400-11(Q)(1). The penalty for violation of this OAC Rule was included in the penalty for contempt of the COPI and Agreed Judgment Entry. However, this penalty was overturned in the Court of Appeals ruling. In his ruling, Judge Mascio ordered you to complete the diversion channel. This was certified complete by your project engineer in a report received by Ohio EPA on February 6, 2006.

**Counts Nineteen & Twenty- Unlawful Storage of Scrap Tires**

Judge Mascio's ruling ordered you to pay a fine of \$28,375.00 and a statutory nuisance tax of \$300.00 for violations of OAC Rule 3745-27-56(C)(2). This ruling was upheld by the Court of Appeals. The State of Ohio has not received payment of these penalties as of this date.

### **Count Twenty-One-Placing of Pollution In Waters of the State**

The court ruled that you illegally polluted waters of the State in violation of ORC 6111.04. You were ordered to pay a penalty of \$5,710.00. This ruling was upheld by the Court of Appeals. The State of Ohio has not received payment of these penalties as of this date.

### **Count Twenty-Four-Surface Water Statutory Nuisance**

Judge Mascio's ruling found that you created a surface water nuisance. You were ordered to pay a statutory tax of \$300. This ruling was upheld by the Court of Appeals. The State of Ohio has not received payment of these penalties as of this date.

### **Contempt of COPI and Agreed Judgment Entry**

**First Branch**-Judge Mascio ruled that you failed to complete the diversion of water on the north and east sides of the landfill facility. The ruling orders you to pay a penalty of \$166,200.00 plus \$900.00 per day for each day after December 10, 2002, until completed. The north and east diversions were certified complete on February 3, 2006. Therefore, the additional penalty for failing to complete this work prior to December 10, 2002, is \$1,035,000. This ruling was upheld by the Court of Appeals. The State of Ohio has not received payment of these penalties as of this date.

**Third Branch**-Judge Mascio ordered you to pay a \$111,300.00 penalty for failing to complete the surface water diversion and a \$10,000.00 penalty, which you originally agreed to in the April, 10, 2002, Agreed Judgment Entry. The penalty of \$111,300.00 was overturned by the Appeal Court Ruling. However, the \$10,000.00 penalty you agreed to pay in the April 10, 2002, Agreed Judgment Entry was upheld. The State of Ohio has not received payment of these penalties as of this date.

### **OAC Rule 3745-400-12**

Judge Mascio's ruling on the merits of the trial identified April 24, 2003, as the required completion date for all closure activities. Since the required work has not been completed, you are in violation of the following OAC Rules until the work is completed. The February 3, 2006, certification report submitted by your project engineer acknowledges that final slopes exceed 25% which is the maximum allowable by OAC Rule 3745-400-07(D). OAC Rule 3745-400-12 outlines the requirements for closure of your facility. Specifically:

**OAC Rule 3745-400-12(G)-Completion.** *Final closure of the facility shall be deemed complete upon the licensing authority's written concurrence with the final closure certification report, required by paragraph (D) of rule 3745-400-08 of the Administrative Code.*

**3745-400-08(D)- Final closure certification report.** *The final closure certification report shall verify that the following activities have been completed in accordance with paragraph (E) of rule 3745-400-12 of the Administrative Code:*

- (1) The facility has been blocked, by locked gates, fencing, or other sturdy obstacles; and*
- (2) Signs are posted; and*

All areas within the limits of debris placement which have been certified for final cap system construction in accordance with paragraphs (D) and (E) of rule 3745-400-07 of the Administrative Code as applicable shall be shown on a copy of the plan sheet specified in paragraph (G)(1)(a) of rule 3745-400-07 of the Administrative Code. Each certified capped area shall include the date of the licensing authority approval required by paragraph (A)(3) of rule 3745-400-08 of the Administrative Code; and

- (4) Ground water monitoring wells are properly plugged and abandoned; and*

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- (5) A copy of the plat filed with the appropriate county recorder; and
- (6) A copy of the notation on the deed to the facility property.

Please respond to this letter in writing within 15 days detailing your actions taken to abate the above noted violations. Please contact me at 740/380-5219 if you have any questions regarding my September 24, 2008, inspection of the Pine Hollow site.

Sincerely,



Peter C. Thompson  
Division of Solid and Infectious Waste Management

PCT/jg

cc: Jefferson County Health Department  
Daniel Clark, Evergreen/UNI  
Jeff Oinonen, JDO Engineering