



State of Ohio Environmental Protection Agency

Southeast District Office

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Logan, Ohio 43138

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Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Laura H. Powell, Acting Director

January 29, 2007

**RE: PIKE COUNTY
SITE - MILLER SALVAGE**

Miller Land Company, an Ohio Corp.
Attn.: Robert Miller
P.O. Box #160
Latham, Ohio 45656

**FAX AND CERTIFIED MAIL
#7006 0100 0003 5620 2587**

**RE: Inspections of Lapparell Road Site
-NOTICE OF VIOLATION-**

Dear Mr. Miller:

This office recently became aware that on or about March 13, 2006, Miller Land Company purchased parcel #12097700 in Pike County from Mr. Fred Miller. Neither Fred Miller nor Miller Land Company advised Ohio EPA of the property transfer. This property contains portions of the Miller Salvage facility and previously identified wood waste and water pollution sources. Seeps identified as sources of pollution discharges to Kincaid Creek and remnants of the old wood waste pile operated by Miller Lumber Company in the 1990's are both present on this property. The parcel also contains portions of the leachate collection pond and the wood waste pile currently associated with the current Miller Salvage operation. As the owner, Miller Land Company is and has been subject to obligations for this site under Ohio Law and Rules and court orders.

The Miller site has been under orders with the Ohio Environmental Protection Agency (Ohio EPA). Both the Agreed Judgement Entry Resolving the State's Motion for Preliminary Injunction (AJPI) that was filed with Pike County Court on April 15, 2005, and the Consent Order Preliminary Injunction (COPI) that was filed with the Pike County Court on November 28, 2001, address operational aspects and ongoing unauthorized pollution associated with the site. Both of the orders specify that "the provisions of the (Agreed Entry and COPI) shall apply to and be binding upon the parties to this action, and, in accordance with Rule 65(D) of the Ohio Rules of Civil procedure, their officers, agents, servants, employees, attorneys, successors, and assigns, and other persons in active concert or participation with them who receive actual notice of this (Agreed Entry and COPI) whether by personal service or otherwise." With the purchase of the above referenced property, Miller Land Company became party and subject to the Orders.

On October 4, 19, and November 28, 2006, inspections of the wood waste site located at 1617 Lapparell Road, Latham, Ohio were performed. The site received wood waste generated by and shipped exclusively from the Mill's Pride cabinet plant in Waverly, Ohio. On October 4, 2006, Dan Bergert was accompanied by Joe Holland of this office. On October 19, 2006, Dan Bergert was on site to perform the inspection. On November 28, 2006, Patrick Hudnall was accompanied by Tim Campbell and Jack Knapp of this office. In addition to these inspections, inspections of the leachate collection pond and the leachate management system were also made that were previously documented in a Notice of Violation (NOV) letter dated January 25, 2007. The purpose of the inspections was to evaluate compliance with the Agreed Judgement Entry Resolving the State's Motion for Preliminary Injunction (AJPI) that was filed with Pike County Court on April 15, 2005, the Consent Order Preliminary Injunction (COPI) that was filed with the Pike County Court on November 28, 2001, Director's Final Findings and Orders (DFFO's) issued on September 16, 1994, special solid waste conditions incorporated into your Surface Water Permit-To-Install (PTI), issued on July 19, 1995, Ohio Administrative Code (OAC) Chapter 3745-27, and Ohio Revised Code (ORC) 3734 and 6111. This letter serves to address those issues not previously covered in the referenced letter.

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Wood Waste Pile Draw Down

Based on the data provided within monthly draw down reports submitted by Miller Salvage, Inc., you are in violation of the following:

AJPI PARAGRAPH 5F, FILED APRIL 15, 2005

Within three (3) months after the effective date of this Order, and every three (3) months thereafter, Defendants shall cause the removal of at least 9,000 tons of wood waste material from the new wood waste pile.

As per the terms of Paragraph 5f of the November 28, 2001, COPI, Miller Salvage has submitted monthly records that report the amount of waste drawn down from the site. On November 27, 2006, this office received a cumulative monthly report from Miller Salvage, Inc. showing the draw down for the month of October 2006. Based upon the report submitted, the wood waste draw down from the site for the quarter from July 15 - October 15, 2006 was 3,080 tons. The draw down schedule for this period was not met. The bulk of the shipments for the period, 1,845 tons, occurred in the first two weeks of the period (the last two weeks of July). The submitted records indicate that the off site shipments have dwindled to less than 200 tons per week.

On May 23, 2006, I received an e-mail from Mr. Fred Miller that contained two attachments. Attachment #2 contained a letter from Mill's Pride to Fred Miller and Miller Salvage, Inc. indicating a pricing structure change in what Mill's Pride would pay Fred Miller and Miller Salvage to take the wood waste. The letter indicated the price paid would progressively decrease over time beginning on May 1, 2006, with a reduction from \$15/ton (the existing rate) to \$10/ton. The Mill's Pride letter stated that they would continue to supply dry waste material at the new price structure until the pile was completely eliminated. Attachment #1 contained a letter from Mr. Fred Miller stating that he would not agree to the terms of the Mill's Pride revised price structure and that he had severed his business relationship with Mill's Pride.

Paragraph 5f of the April 15, 2005, AJPI required quarterly milestones of at least 9,000 tons of draw down per quarter toward the elimination of the entire pile. The draw down schedule has not been met.

OBSERVATIONS BY DATE

At various times in the Fall of 2005 and also in the early Summer of 2006, it was observed a Miller Salvage operator was taking steps to recover waste from the Old Footprint area, in the field west of the existing site. Complete clean-up of this material has been a requirement of both the COPI and the AJPI. A bulldozer was used to scrape off the wood waste into windrows, then the loader was used to pickup and haul the material back to the stockpile at the existing site. However, all of the wood waste material has not been removed from the old footprint area.

October 4 and 19, 2006 Observations

It was observed that the remaining wood waste had been removed from most of the remaining area. However, it was noted that a few areas remained which contained a significant quantity of ground or partially ground wood waste. These areas appeared to correspond with low areas that were particularly wet.

The field is currently barren of any vegetation. It was observed that an application of what appeared to be gypsum was added to the field and disced in some time between October 4 and October 19. Application of the gypsum was apparently per a recommendation from Mark Wilson, Miller Salvage's consulting agronomist. It did not appear that steps had been taken to revegetate the field (seed, fertilize, and mulch).

During the November 28 site inspection and all other inspections noted in the January 25, 2007, NOV letter, it was observed that the old pond was still present at the site and no work had been done to remove the accumulated leachate, solid waste, or sediment from the pond. The leachate

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collection ditches surrounding the wood waste pile were crudely constructed without uniform shape, slope, or liner material.

Miller Land Company is in violation of the following:

AJPI, PARAGRAPH 5B, FILED APRIL 15, 2005 - (relevant to construction per the PTI)

Within ninety (90) days of approval of the PTI by Ohio EPA, Defendants shall complete construction of the new leachate collection pond in accordance with their approved PTI.

The PTI was approved on July 28, 2005. The deadline for the construction of the new pond and all ancillary construction required by the PTI was October 26, 2005. The PTI specified that the old pond would be cleaned of all accumulated leachate, solid waste and sediment, and backfilled. The PTI also specified that where new sections of leachate collection ditch were required, said ditch would be constructed with a bottom width of three (3) feet, side slope ratio of 3:1, a depth of five (5) feet and the ditch would be lined with two (2) feet of compacted clay. According to the approved plans, the leachate collection ditch starting at the southeastern corner of the pile and traversing around the southern end of the pile and north along the western edge of the pile to the new leachate collection pond was a new section of ditch, and should have been constructed per the specification on page 9/13 of the approved construction plans. Neither of these construction activities had been completed at the time of the November 28, 2006, site inspection and all other site inspections noted in the January 25, 2007, NOV letter. Immediately complete the above-mentioned construction activities.

AJPI, PARAGRAPH 5C, FILED APRIL 15, 2005 - (relevant to new leachate collection pond)

Within thirty (30) days after completion of the new leachate collection pond, Defendants shall submit to Ohio EPA SEDO a construction certification report, prepared by an independent professional engineer registered in Ohio, certifying that the pond was constructed in accordance with the approved PTI.

The new leachate collection pond construction was completed and placed into operation on or around December 1, 2005. The deadline for the submittal of the required certification report was approximately January 1, 2006. To date, Ohio EPA SEDO has not received any such report. Immediately retain the services of an independent professional engineer, registered in the state of Ohio, to complete a construction certification report for the new leachate collection pond.

AJPI, PARAGRAPH 5E, FILED APRIL 15, 2005 - (relevant to existing old pond)

Within thirty (30) days after completion of the new leachate collection pond, Defendants shall remove and properly dispose, land apply, or treat all remaining accumulated leachate, solid waste, and sediments from the existing pond. Within seven (7) days of removal of all solid waste and leachate from the old pond, either 1) remove the existing pond, or 2) repair and reline the existing pond in accordance with the standards set forth in PTI 06-4142 to use as a back up to the new pond.

As noted above, the new leachate collection pond construction was completed and placed into operation on or around December 1, 2005. The deadline for the removal and proper disposal of the old pond's contents was approximately January 1, 2006. As observed during the November 28, 2006, and all other site inspections noted in the January 25, 2007, NOV letter, the existing pond still contained leachate, solid waste and sediment. No work had been done to restore the liner of the old pond to the standards set forth in PTI 06-4142. Immediately remove all accumulated leachate, solid waste and sediment from the existing pond for proper disposal and backfill the old pond per the approved construction plans.

AJPI PARAGRAPH 5L, FILED APRIL 15, 2005

Within one hundred eighty (180) days after the effective date of this Order, the Defendant shall completely remove all remaining wood waste material from the old footprint located between the new wood waste stockpile and Kincaid Creek.

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This order required that all remaining wood waste from the old footprint the old storage pile be completely removed by no later than October 12, 2005. As noted above, discreet areas of residual wood waste material remains on site. Leachate from this waste material discharges into the groundwater and into Kincaid Creek. All additional remaining waste must be removed immediately.

and

COPI, PARAGRAPH 5Q, FILED NOVEMBER 28, 2001

Immediately remediate areas previously occupied by unpermitted storage piles by removing residual debris and restoring a dense vegetative cover.

As noted above, the entire field is currently barren and no steps have been taken to reestablish a vegetative cover. Areas of residual wood waste remains. The remaining wood waste must be removed and steps taken to revegetate the field.

and

SPECIAL TERMS AND CONDITIONS, PARAGRAPH 3 OF PTI #06-4142 ISSUED JULY 19, 1995

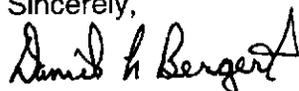
Within two hundred and seventy days (270) of the effective date of this permit, *any waste stored outside the areas specified in the approved plans for storage piles* shall either 1) be moved to within the areas specified within the approved plans to ensure runoff from the storage piles is collected and contained in the surface water collection system and the collection ponds, or 2) be removed to a licensed solid waste disposal or transfer facility, a properly authorized location for land application or beneficial use, or a resource recovery facility.

This condition required that the old storage pile be completely removed by no later than April 14, 1996. As noted above, discreet pockets of residual wood waste material remains on site. Leachate from this waste material discharges into the groundwater and into Kincaid Creek. All additional remaining waste must be removed immediately.

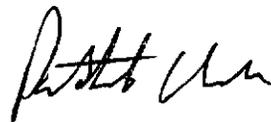
Failure to list specific deficiencies in this communication does not relieve you from the responsibility of complying with all applicable environmental regulations. This letter does not relieve you from liability for any past or present violations of the state's environmental laws.

Please provide a written response within 10 days detailing your actions taken to correct the violations noted within this letter. The seriousness and severity of the ongoing violations at your facility continue to be of great concern to the Agency. Please contact me at 740-380-5438 if you have any questions.

Sincerely,



Daniel L. Bergert, R. S.
Environmental Specialist II
Division of Solid and Infectious Waste Management



Patrick Hudnall
Environmental Specialist II
Division of Surface Water

DLB/PH/jg

cc: Pat Hudnall through Tim Campbell, DSW-SEDO
Maria Galanti, DERR-SEDO
Carl Mussenden, DSIWM-CO
George Horvath, Assistant Attorney General
Sandy Colegrove, Pike County Health Department
Fred Miller, Miller Salvage, Inc.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

MILLER LAND CO.
ATTN: BOB MILLER
P.O. BOX 100
LATHAM OH 45856

2. Article Number
(Transfer from service label)

7006 0100 0003 5620 2587

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Beth Parker*

Agent

Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? Yes

If YES, enter delivery address below: No

3. Service Type

Certified Mail

Express Mail

Registered

Return Receipt for Merchandise

Insured Mail

C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes