



State of Ohio Environmental Protection Agency

Southeast District Office

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

February 27, 2009

**RE: TUSCARAWAS COUNTY
FAC-KIMBLE SANITARY LANDFILL
COM**

Mr. Keith Kimble
Kimble Clay & Limestone Co.
3596 State Route 39 NW
Dover, Ohio 44622

Subject: Response to January 28, 2009, Letter from Mr. J. Tyler Fitzgerald

Dear Mr. Kimble:

On January 28, 2009, the Ohio Environmental Protection Agency (Ohio EPA), Southeast District Office (SEDO), received a letter from Mr. J. Tyler Fitzgerald responding for the Kimble Sanitary Landfill regarding Ohio EPA's notice of violation issued on January 16, 2009. In his letter, Mr. Fitzgerald requests that the violation be rescinded.

Ohio Administrative Code (OAC) Rule 3745-27-19(K) requires the proper containment of leachate outbreaks. This containment is to be at the point of the outbreak, not the facility boundary, as Mr. Fitzgerald appears to indicate within his letter. The failure to contain and control the outbreak at the point of generation is a violation.

The leachate outbreaks were first observed on December 11, 2008, by Ohio EPA and the Tuscarawas County Health District (TCHD) and cited by Ohio EPA and the TCHD.

On December 23, 2008, a follow up inspection was conducted by Ohio EPA and TCHD to determine if the violation had been corrected. At the time of our visit, we were accompanied by Mr. Fitzgerald. At that time, the leachate outbreak was not contained and leachate was observed to be meandering down the northern slope of phase 1C in an uncontained and uncontrolled manner.

On December 30, 2008, I conducted another follow up inspection to once again determine whether the previously cited leachate violation had been corrected. I was accompanied by Mr. Mark Tondra. At the time of the inspection, leachate was observed to be meandering down the northern slope of phase 1C in an uncontained and uncontrolled manner.

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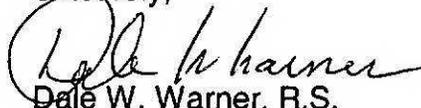
On January 22, 2009, I was accompanied by the TCHD on another follow up inspection to determine if the aforementioned violation had been corrected. Mr. Rick Baker represented the facility. At the time of the inspection, leachate was observed to be running down the northern slope of phase 1C and entering the surface water control structure. At that time, Mr. Baker indicated he would have the leachate contained and repaired when whether permits.

On January 27, 2009, a follow up inspection was conducted once again to determine compliance with OAC Rule 3745-27-19(K). At the time of the inspection, hay bales had been dug in around the leachate seep locations and appeared to be properly containing the leachate outbreak. At that time, the leachate seeps appeared to have been contained and the facility was determined to be in compliance on that day.

The main consideration in determining a violation of OAC 3745-27-19(K) is whether the operator has properly contained and controlled the leachate outbreak at the point of generation. At this time, Ohio EPA declines to rescind the violation listed in the Ohio EPA's January 16, 2009, Notice of Violation. The Kimble Sanitary Landfill was in violation of OAC 3745-27-19(K) from December 11, 2008, to January 27, 2009.

If you have any questions, please free to contact me at (740) 380-5435.

Sincerely,



Dale W. Warner, R.S.

Environmental Specialist

Division of Solid and Infectious Waste Management

DWW/jg

cc: Tuscarawas County Health Department
Matt Boyer, CO-DSIWM