



State of Ohio Environmental Protection Agency

**Northwest District Office**

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

Re: Ken Gill Construction, LLC  
Ottawa County  
Hazardous Waste  
Complaint #2703  
Return to Compliance

December 6, 2007

Mr. Chris Simon, Estimator  
Ken Gill Construction, LLC  
2125 East Harbor Road  
P. O. Box 608  
Port Clinton, Ohio 43452

Dear Mr. Simon:

Thank you for your November 16, 2007, response to Ohio EPA's Notice of Violation (NOV) dated October 9, 2007. This NOV was issued to address a violation found during Ohio EPA's complaint investigation on September 25, 2007.

The information you submitted has been reviewed and the status of the violation cited is as follows:

1. **Waste Evaluation.**  
**Ohio Administrative Code (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.

Ken Gill Construction, LLC (KGC) failed to have waste evaluation documentation for the contaminated soil piles generated at the work site located at 709 West Main Street. You must evaluate the waste pile that is now being staged at 1030 Englebeck Road, Danbury Township.

You must obtain a representative sample of the waste pile, according to OAC Rule 3745-51-20. You must evaluate all samples, through laboratory analysis for Toxicity Characteristic Leaching Procedure (TCLP) RCRA metals (excluding mercury), BTEX and PAH as listed in the OAC Rule 3745-51-24 following the method as outlined in U.S. EPA's SW-846. You must submit the results of the laboratory analysis to Ohio EPA. *KGC will need to give Ohio EPA a five-day advance notice of sampling activities, in order for an inspector to make arrangements to view the sampling.*

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KGC may utilize the Bureau of Underground Storage Tank Regulations (BUSTR) Sampling Guidance, the Standard Guide for Sampling Waste Piles (ASTM D 6009-96) as an additional guidance to conduct the stockpile sampling. This is required per OAC Rule 3745-52-11 and referenced in OAC Rule 3745-51-20.

Each sampling location should be characterized to a minimum depth of 3 feet below grade where applicable. Grab samples should be taken from the 0 – 12 inch, 12 – 24 inch and 24 – 36 inch zones. Samples in each individual sampling location should be composited. Despite Photo Ionization Detector (PID) field screening results, an adequate number of samples must be submitted to a laboratory for analysis to be representative of the total volume of waste.

Before sampling, you must submit a sampling and analysis plan for my approval which explains, in writing, how you will determine the quantity of each waste at the facility (number, size and type of container, and total volume of each waste type), how you will obtain a representative sample of each type of waste (including the number of samples), the sampling equipment to be used (collectors and sample containers), who will collect it, who will analyze it and how and where it will be analyzed (constituents and method numbers). Please refer to the following guidance document for help with writing your waste sampling and analysis plan: RCRA Waste Sampling Draft Technical Guidance. It can be found at <http://www.epa.gov/epaoswer/hazwaste/test/pdfs/rwsdtg.pdf>.

The complete analytical results from implementation of the approved sampling and analysis plan must be submitted to me as soon as they are available. Your results must document if the waste is hazardous or not and 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 facility's compliance with other hazardous waste laws and notify you of my findings in a separate letter.

Ohio EPA will use the data you provide, in addition to other documentation, to make regulatory decisions concerning the wastes tested. The data you submit should be reviewed using a data review process, referred to as data validation, to confirm the validity of your data prior to submission.

Data validation includes a review of the following components: laboratory test methods, laboratory data completeness, documentation of holding time(s), chain(s) of custody, and quality assurance/quality control (QA/QC) data. To confirm the validity of your data, you may use Ohio EPA's tier 1 data validation plan review form which can be obtained at: [http://www.epa.state.oh.us/dhwm/tier\\_1\\_data\\_validation\\_manual.html](http://www.epa.state.oh.us/dhwm/tier_1_data_validation_manual.html). Ohio EPA may request the documentation needed to confirm the validity of the data submitted. *Please submit a brief narrative of each sampling event which includes: process generating the waste, point in the process the sample was obtained, sampling techniques used to obtain the sample and a description of how this sample was determined to be a representative sample of the waste tested.*

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Please be advised that a full compliance evaluation inspection was not conducted. 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.

**Sample results indicated the presence of trace levels of Poly-Aromatic Hydrocarbons. The sample results for RCRA metals and BTEX were non-detectable. Based on the soil testing results submitted, it is concluded that the soil piles tested are non-hazardous. This violation has been abated.**

If you should have any questions, please feel free to call me at (419) 373-3015.

Sincerely,



Edgar V. Pulido  
Division of Hazardous Waste Management

/cs

pc: Colleen Weaver, DHWM, NWDO  
Kimberly Burnham, DSIWM, NWDO  
Cindy Lohrbach, DHWM, NWDO  
Dina Pierce, PIC, CO  
DHWM, NWDO: File: General - Ottawa County

ec: Ed Pulido, DHWM, NWDO

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.
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