



State of Ohio Environmental Protection Agency

**Northwest District Office**

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Bowling Green, OH 43402-9398

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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  
Notice of Violation

October 9, 2007

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

Dear Mr. Simon:

On September 25, 2007, I investigated a complaint regarding soil piles at a property in 1030 Englebeck Road, Danberry Twp. in Ottawa County. At the time of this investigation, this property was owned by Ken Gill Construction (KGC). This complaint came through a report from the Ohio EPA Emergency Response Unit (ER). According to the Ohio ER report, strong petroleum odors have been detected coming from soil piles on the KGC property. The report further stated that the soil came from a construction site located at 709 West Main Street, Port Clinton Ohio. This site has been a petroleum fuel business according to the Ohio EPA ER report. This letter will explain the violation I found as a result of my investigation and what you need to do to correct this violation.

Upon arrival at your company office located at 2125 East Harbor Road, I spoke with you. You stated that the soil has been excavated from a site where a strip mall was being built. You stated that the property where the contaminated soil was excavated from was own by Robert Kelly.

After traveling to the site I observed the soil pile. I detected light petroleum odor coming from samples of the soil pile I took from a separate location within the pile. The soil pile was covered with plastic.

Mr. Chris Simon  
October 9, 2007  
Page 2

Based on my investigation, I found the following violation of Ohio's used oil regulations. 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.**  
**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.

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, Danberry Twp.

You must obtain a representative sample of the wastes 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.*

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 ft. below grade where applicable. Grab samples should be taken from 0-12 inches, 12-24 inches and 24-36 inches 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.

Mr. Chris Simon  
October 9, 2007  
Page 3

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 from Ohio EPA's web page: [http://www.epa.state.oh.us/dhwm/tier\\_i\\_data\\_validation\\_manual.html](http://www.epa.state.oh.us/dhwm/tier_i_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.*

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.

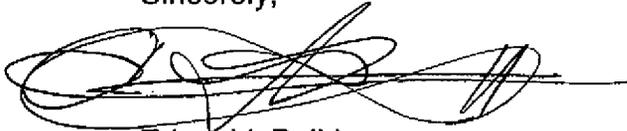
Mr. Chris Simon  
October 9, 2007  
Page 4

The Division of Hazardous Waste Management (DHWM) 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: [www.epa.state.oh.us/dhwm/listserv.html](http://www.epa.state.oh.us/dhwm/listserv.html). Please feel free to share this information with your colleagues.

You can find copies of the rules and other information on the division's web page at <http://www.epa.state.oh.us/dhwm>. Ohio EPA has helpful information about pollution prevention at the following web address: <http://www.epa.state.oh.us/ocapp/ocapp.html>.

If you should have any questions, please feel free to call me at (419) 373-3082.

Sincerely,



Edgar V. Pulido  
Division of Hazardous Waste Management

/lb

pc: Colleen Weaver, DHWM, NWDO  
Cindy Lohrbach, DHWM, NWDO  
~~DHWM, NWDO File: General - Ottawa County~~

ec: Ed Pulido, DHWM, NWDO

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