Environmental
Protection Agency

Governor
Lt. Governor
Director

January 13, 2012

RE: NOTICE OF VIOLATION
COPLEY, SUMMIT COUNTY

CERTIFIED MAIL

Robert Madden
Madden Brothers, Inc.
1660 Collier Road
Copley, Ohio 44320

7011 0470 0002 3496 0767

Glenn Huryn
1417 Lakeland Avenue
Akron, Ohio 44320

7011 0470 0002 3496 0774

Margaret LaSalle
1660 Collier Road
Akron, Ohio 44320

7011 0470 0002 3496 0781

Dear Mr. Madden, Mr. Huryn, and Ms. LaSalle:

On November 23, 2011, Ohio Environmental Protection Agency (Ohio EPA) inspected your mulch/compost facility at 1660 Collier Road, Copley, Summit County. You are the president and operator of this business. The property owner is listed as Margaret LaSalle. The inspection was due to a complaint that leachate from your site was entering Pigeon Creek and that there is open dumping of solid wastes at the property south of your site. The south property was included in this inspection because piles of mulch and woody debris from Madden Brothers, Inc. are on the south property. This letter provides a notice of violations and one comment identified during the inspection.

Attending the inspection were Julie Brown, Summit County Public Health, and I, representing Ohio EPA, Division of Materials and Waste Management. Inspection results were provided to you immediately after the inspection.

Your mulch/compost business is located on a 5.86-acre parcel. Most of the property is covered by large piles of mulch, compost, and woody debris. Some of the mulch piles were as high as approximately 40 feet. The back end (west side) of the property is approximately 50 feet from Pigeon Creek. There is significant evidence of leachate being discharged to Pigeon Creek as described below. This letter is in sections titled south property and mulch area.

Northeast District Office
2110 East Aurora Road
Twinsburg, OH 44087-1924

330 | 963 1200
330 | 487 0769 (fax)
www.epa.ohio.gov

South Property

The adjacent "south property" is narrow and the south side of the property is next to an unnamed creek that flows into Pigeon Creek. The unnamed creek flows directly into Pigeon Creek at the southwest corner of the south property. The owner is listed as Calvin Blackmon. You indicated that Mr. Blackmon is deceased and no relatives have yet claimed the property. You also said that open dumping has occurred at the Blackmon property. The dumped waste includes at least 500 scrap tires, yard waste, car parts, plastic buckets, contaminated soil, and construction and demolition debris (CDD) including glass, plastics, drywall, shingles and clean hard fill. Some debris was slumping into the unnamed creek. Debris was also seen in a small pond/wetland at the back of the Blackmon property.

Some of your mulch/compost and woody debris piles are on the south property. Also, leachate from your mulch piles was flowing south across the south property and toward the unnamed creek.

Your mulch and woody debris piles are on the south property. The south property appears to be part of your compost facility. If so, you are responsible for keeping the south property free of leachate discharge and free of the open dumping of solid wastes. This includes the cleanup of dumped solid waste and CDD on the south property. Ohio EPA is not implying that it is legal for you to take over a property without the owner's permission.

Because solid waste is open dumped on the south property and you are currently considered the operator of the compost facility which is partially located on the south property, you are in violation of:

1. **Ohio Administrative Code (OAC) 3745-27-05(C)**
   This rule states in part, "No person shall conduct, permit, or allow open dumping."

2. **Ohio Revised Code (ORC) 3734.03**
   This law states in part, "No person shall dispose of solid wastes by open burning or open dumping...No person shall dispose of treated or untreated infectious waste by open burning or open dumping."

To achieve compliance with the above rule and law, you must:

- Remove and properly dispose the south property's solid waste at a licensed solid waste facility. Uncontaminated CDD can be separated for disposal at a

licensed CDD facility. Copies of disposal receipts must be sent to Ohio EPA and Summit County Public Health.

- Immediately stop the discharge of leachate from the south property.

Mulch Area

The "mulch area" on your property includes large piles of woody debris, soil-like material, and mulch/compost located behind the office building. Some piles are approximately 40 feet high. The piles cover most of the property.

There are two leachate collection ponds. The first pond is in the middle of the property. The second pond is at the back (west) end of the property and is approximately 50 feet from Pigeon Creek. The west side of the back leachate pond has an overflow drainage ditch that goes south across the neighboring properties and discharges to the unnamed creek. Liquid was in the overflow ditch. In addition, there was a canvas hose stretched from the leachate pond and ending several feet from Pigeon Creek. There was a deep erosion ditch in the soil between the hose outlet and Pigeon Creek.

3. ORC 6111.04 Leachate entering waters of the state

Because leachate leaves the site and enters surface water, the leachate is considered a discharge of pollutants to "waters of the state." The owner/operator does not have a National Pollutant Discharge Elimination System (NPDES) permit to discharge leachate material into waters of the state. Therefore, the owner/operator is in violation of ORC Section 6111.04.

ORC Section 6111.04 states in part, "No person shall cause pollution or place or cause to be placed any sewage, industrial waste, or other wastes in a location where they cause pollution of any waters of the state, and any such action is hereby declared to be a public nuisance, except in such cases where the director of environmental protection has issued a valid and unexpired permit, or renewal thereof, as provided in sections 6111.01 to 6111.08 of the Revised Code, or an application for renewal is pending."

Our records indicate that you do not possess any permit(s) authorizing the discharge of process, nonprocess or stormwater from your site. The discharge of leachate to waters of the state will not be authorized. However, you can and are required to make an application for the discharge of clean uncontaminated storm

water runoff. A General or Individual Industrial Stormwater permit is available to authorize the aforementioned stormwater discharge.

To be eligible for this General Permit, the owner/operator must immediately cease the discharge of pollutants to waters of the state of Ohio by containing the leachate on site and hauling it to an approved treatment facility such as a large municipal wastewater treatment plant. This will require pre-approval from this entity. Records proving the leachate is being properly disposed must be submitted to this office. Concurrently, steps must be taken to stop the production of this leachate at this site or any other Madden Brothers, Inc. mulch/compost location. If the owner/operator does not comply with the aforementioned, then an Individual NPDES Permit will be required, written specifically for the site, for the discharge of clean uncontaminated stormwater runoff. The General Permit will then be revoked. Should you have any questions concerning these permits, you are directed to contact Philip Rhodes, DSW, NEDO at (330) 963-1136, or by e-mail at phil.rhodes@epa.state.oh.us.

4. OAC 3745-27-45(H)(3)(a-c) Leachate Management

This rule requires leachate to be managed in accordance with ORC 6111, minimize the production of leachate, control or eliminate ponding of leachate and the conditions that contribute to the discharge of leachate from the composting facility, and maintain structures or mechanisms used for the collection of leachate. The owner/operator is in violation of OAC 3745-27-45(H)(3)(a-c) because the leachate was not properly managed and leachate was discharged from the site.

There are two leachate collection ponds; one pond in the middle of the property and one pond near the back end of the property near Pigeon Creek. The west side of the back leachate pond has an overflow drainage ditch that goes south across neighboring properties and discharges to the unnamed creek. Liquid was in the overflow ditch.

Also, there was a canvas hose stretched from the leachate pond and ending several feet from Pigeon Creek. There was a deep erosion ditch in the soil between the hose outlet and Pigeon Creek.

Lastly, leachate was flowing south from mulch/compost and debris piles at the Blackmon property and towards the unnamed creek.

Madden Brothers must immediately stop discharging leachate to other properties and waters of the state.

5. OAC 3745-27-45(C)(1)(e) Water Pollution

This rule states, "The owner or operator of a composting facility shall conduct operations at the composting facility in such a manner that . . . water pollution is not created and Chapter 3704. of the Revised Code or any rule promulgated thereunder is not violated."

The owner/operator did create water pollution. Madden Brothers must immediately stop discharging leachate to other properties and waters of the state.

6. OAC 3745-27-45(A)(4) Prohibited Material

This rule requires the owner/operator to not accept any prohibited material. Prohibited material includes any feedstock, bulking agent, or additive other than those feedstock types, bulking agents, or additives authorized by rule 3745-27-40 of the OAC.

The piles at the south section of the business included plastic bags of material, CDD including shingles, siding, carpet, glass, metals, scrap tires and piles of soil mixed with debris.

The owner/operator must immediately stop accepting prohibited materials.

7. OAC 3745-27-45(A)(5) Prohibited Material

This rule requires the owner/operator to properly manage any containers used to transport authorized materials to a composting facility that do not meet the definition of biodegradable containers as defined in rule 3745-27-01 of the OAC. Such containers shall not be introduced into the composting process.

The piles at the south part of the business included plastic bags of material. There were no organized windrows of compost material. It was not clear if the plastic bags of material were in compost windrows or in a staging area.

The owner/operator must properly manage any containers including plastic bags. Plastic bags cannot be included in compost windrows.

8. OAC 3745-27-45(C)(2) Prevent Prohibited Material

This rule states, "All reasonable measures shall be employed to prevent acceptance of prohibited material at the facility. If prohibited material is detected:

(a) All reasonable measures shall be employed to control and remove the prohibited material from the materials placement area, including but not limited to, windrows, piles, or in-vessel composting systems.
(b) All incidents concerning the prohibited material shall be noted in the daily log.
(c) With any incoming feedstock, bulking agent, or additive, the owner or operator shall refuse acceptance of the prohibited material.
(d) The owner or operator shall properly manage the prohibited material in accordance with all applicable laws and regulations.
[Comment: Ohio EPA recognizes that incidental non-biodegradable material, such as plastic, styrofoam, glass, metals, and rubber may inadvertently be commingled with authorized source-separated feedstocks, bulking agents, or additives. It is the intent of Ohio EPA that the owner or operator remove such material upon discovery and dispose of the prohibited material in an appropriate manner. The requirements of paragraph (I) of this rule should also be considered when prohibited material is discovered at the composting facility and cross contamination of feedstocks, bulking agents, or additives may have occurred]".

The owner/operator is in violation of OAC 3745-27-45(C)(2). The piles at the south part of the business included plastic bags of material, CDD including shingles, siding, carpet, glass, metals, scrap tires and piles of soil mixed with debris. The owner/operator did not employ all reasonable measures to prevent acceptance of prohibited material at the facility.

The owner/operator must employ all reasonable measures to prevent acceptance of prohibited material at the facility. Also, any discovered prohibited material should be removed and disposed in the appropriate manner as soon as possible.

9. OAC 3745-27-45(A)(2) Compost site registration requirement

Madden Brothers, Inc. does not have a Class IV compost registration for the Copley site. Please send Ohio EPA a completed compost site registration application for the Copley site. The previous owner's registration is not valid.

10. OAC 3745-27-41(E)(1) Notification prior to operating

Madden Brothers did not notify Ohio EPA and Summit County Public Health as required by the above rule that states, in part, "Not less than thirty days prior to the date on which the owner or operator will accept authorized feedstocks, bulking agents, or additives, the owner or operator of a class IV composting facility shall submit to the director and to the health district having jurisdiction a complete notification on forms prescribed by the director to register the composting facility..."

Please submit the required notification documents stated in OAC 3745-27-41(E)(1).

11. OAC 3745-27-45(M)(4) Setback from surface waters of the state

This rule states in part, "For a class II, II, or IV composting facility, the materials placement areas and leachate management system of the facility shall be located at least two hundred feet from any surface waters of the state unless the facility was registered prior to the effective date of rule 3745-27-41 of the Administrative Code. A facility registered prior to the effective date of rule 3745-27-41 of the Administrative Code shall be located at least one hundred feet from any surface waters of the state regardless of whether the facility submits another notification in accordance with paragraph (C) of the rule 3745-27-41 of the Administrative Code."

[Comment: The effective date of rule 3745-27-41 of the Administrative Code referenced in this paragraph is the same effective date for all the composting rules.]" The effective date is June 1, 2003.

Currently, the back leachate pond and some material placement areas are less than 200 feet from Pigeon Creek. Also, some of the south perimeter material placement areas appear to be within 200 feet of the unnamed creek.

Madden Brothers must move the leachate pond and materials placement areas at least 200 feet away from waters of the state, including Pigeon Creek and the unnamed creek. Also, please provide Ohio EPA with a plan drawing showing how Madden Brothers will comply with the setback requirements of OAC 3745-27-45(M)(4). Finally, please include a description of how the leachate pond liner will be constructed so that leachate will not contaminate ground water and surface water. Ohio EPA recommends a compacted clay liner for the leachate pond.

12. OAC 3745-27-45(E) Methods of Composting

This rule states, "The methods of composting utilized at a Class IV composting facility shall enable biological decomposition and ensure control of leachate, surface water, and ponding of liquids as specified in paragraphs (G) and (H) of this rule."

The large piles of mulch/compost do not enable aerobic biological decomposition and ensure control of leachate, surface water, and ponding of liquids. The dimensions of compost windrows or piles are determined by the equipment used to turn (aerate) the piles. Training provided by the Ohio Agricultural Research and Development Center recommended that a compost site that uses a bucket loader to turn the compost, should have windrows that are 6 to 12 feet high and 10 to 20 feet wide.

The owner/operator is in violation of OAC 3745-27-45(E)(3) for failure to use methods of composting that enables biological decomposition and ensures control of leachate, surface water, and ponding of liquids.

Comment

Mulch piles that are stored on site that begin to break down biologically could be considered composting. Ohio EPA recommends that mulch piles be managed to prevent odor and leachate generation.

Madden Brothers, Inc. needs to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, Madden Brothers, Inc. is requested to provide documentation to this office including the steps taken to abate the violations cited above. Documentation of steps taken to return to compliance includes written correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to Dave.Dysle@epa.state.oh.us.

Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapter 3734. (or 3714 for C&DD) of the Ohio Revised Code and rules promulgated thereunder may result in a civil penalty of up to $10,000 per day for each violation. It is imperative that you return to compliance. If circumstances delay the abatement of violations, Madden Brothers, Inc. is requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

If you have any questions, please contact me by telephone at (330) 963-1286, or by e-mail at Dave.Dysle@epa.state.oh.us.

Sincerely,

Dave Dysle

Dave Dysle
Environmental Specialist
Division of Materials and Waste Management

DD/cl

cc: Barry Chapman, DMWM, CO
Phil Rhodes, DSW, NEDO
Matt Springer, Copley Township Zoning Department
Sean Vadas, Akron Regional Air Quality Management District
Julie Brown, Summit County Public Health
Irv Sugarman Goldman & Rosen
File: [Sowers/COMP/Summit/GEN/77]