

Environmental
Protection Agency

Governor
Lt. Governor
Director

December 27, 2011

RE: WMI GENEVA LANDFILL
LANDFILL OPERATIONS
NOTICE OF VIOLATION

Mr. Evan Jahn
USA Waste Geneva Landfill, Inc.
4339 Tuttle Road
Geneva, OH 44041

Dear Mr. Jahn:

On August 10 and 11, 2011, Ohio EPA conducted an odor surveillance and inspection at the Geneva Landfill to determine compliance with Chapter 3734 of the Ohio Revised Code. The purpose of the odor surveillance and inspection was to respond to complaints received by Ohio EPA between August 6 and 8, 2011 alleging odors and lack of daily cover. I, representing the Division of Materials and Waste Management (DMWM), conducted odor surveillance around the periphery of the landfill. I also conducted an inspection of the landfill daily cover.

Summary of Inspections Performed August 10 and 11, 2011

On August 10, 2011, I conducted odor surveillance around the periphery of the landfill. Once completed, I stopped in at the office and spoke to Jerry Ball, site manager, and notified him that I received some odor complaints and surveillance findings. At the time of the surveillance, odors were not detected emanating from the facility. During the exit conference, I also notified Mr. Ball of scattered litter on the east side of the landfill. I suggested that measures be taken to control scattered litter, at which time Mr. Ball relayed this issue via radio to facility personnel.

On the morning of August 11, 2011, I notified you of the purpose of the inspection upon your arrival at the landfill. You accompanied me to the disposal area, where I noted that the alternative daily cover had been peeled back by employees prior to our arrival. While viewing the disposal area, I noted two distinct areas where daily cover was still visibly in place, and it was either saturated or the soil appeared dry with solid waste protruding through the soil cover. It was odd to see the saturated soil cover, considering the majority of the landfill surface appeared dry. A sample of photographs documenting my observations was electronically mailed to USA Waste. USA Waste is welcome to review our files to see the remaining photographs.

Although the alternative daily cover had been peeled from the working face, Ohio EPA identified three violations, as evidenced in photographs, that were communicated to you during an exit conference and later documented in electronic mail dated September 2, 2011. In a letter dated September 7, 2011, from (USA Waste Geneva Landfill, Inc. (USA Waste)), the noted violations were disputed. This letter is written in part to clarify and provide information that may not have been conveyed to USA Waste.

The operational issues at the site were discussed with the landfill operator during the inspection and later conveyed to USA Waste personnel via electronic mail with attached photographs on September 2, 2011. In summary, Ohio EPA identified the following violations:

1. **OAC Rule 3745-27-19(E)(9)** states that "[t]he owner or operator shall employ all reasonable measures to collect, properly contain, and dispose of scattered litter, including the use of portable wind screens where necessary and frequent policing of the area."

USA Waste is in violation of OAC Rule 3745-27-19(E)(9) for failure to control litter. USA Waste personnel were notified of the scattered litter issue the previous day. The scattered litter observed on August 10, 2011 had not been collected, contained, and disposed along the east side of the landfill. Reasonable measures must be employed to collect, contain, and dispose of scattered litter through the use of fences, daily cover, and pickers.

2. **OAC Rule 3745-27-19(F)** states, in part, *“Daily cover shall be applied to all exposed solid waste by the end of the working day to control fire hazards, blowing litter, odors, insects, vectors, and rodents...”*

USA Waste is in violation of OAC Rule 3745-27-19(E)(F) for failure to maintain daily cover. Ohio EPA noted that solid waste was protruding the soil cover. As alleged in complaints from the neighbors, lack of daily cover can lead to blowing litter, is an attractant to birds and rodents, and can lead to nuisance odors. This is a source of complaints from the neighbors, it is a repeated violation, and USA Waste needs to apply soil cover in accordance with rule and authorizing documents.

3. **OAC Rule 3745-27-19(J)(3)** states *“If ponding or erosion occurs on areas of the sanitary landfill facility where waste is being, or has been deposited, the owner or operator shall undertake actions as necessary to correct the conditions causing the ponding or erosion.”*

USA Waste is in violation of OAC Rule 3745-27-19(J)(3) for failure to correct ponding. Although the majority of the landfill surface appeared dry, there was a rather large depression filled with water at the surface of the landfill. USA Waste needs to identify large depressions and take necessary steps to shed storm water. In your correspondence dated September 7, 2011, you acknowledged the violation and indicated that it was caused by construction activity being performed by a third party contractor. While factors such as construction activity and weather may result in unexpected conditions at a landfill facility, the owner or operator is expected to put contingencies in place to maintain compliance with applicable rules and authorizing documents. As documented in your September 7, 2011 letter, USA Waste took steps to return to compliance for this noted violation.

Response to Correspondence dated September 7, 2011

As previously discussed, I followed protocol of waiting at the office/scale house for staff to grant me access to the landfill. Within the last year, this office has attempted to inspect the daily cover only to have it peeled back as the inspector is standing around the office/scale house. As a result, the inspector has been limited in the scope of his inspection. In the future, this office will attempt to contact staff at the office/scale house. If that person is not present, then the inspector will attempt to contact you via your cell phone. If the inspector is unable to reach him, the inspector will enter the facility and attempt to contact the first landfill person available to be granted access. Although this is a change in the protocol at this site, let me know if this is a problem.

In the correspondence from USA Waste dated September 7, 2011, concerns were raised regarding the manner in which conversations ensued during the inspection. During the course of the inspection, Ohio EPA inspectors will ask open-ended questions to better understand the circumstances of the observations. The conversation during the August 11, 2011 inspection in no way questioned your honesty or implied misconduct by USA Waste personnel. As a result of observing the aforementioned violations, the purpose of the dialogue is to better understand the practices at the facility that may inadvertently result in noncompliance. Through this information gathering process, Ohio EPA and USA Waste staff can communicate relevant information and identify steps to resolve violations.

In the letter dated September 7, 2011, a concern was raised regarding the timeliness of notifying you of the aforementioned violations. It is DMWM's protocol to discuss observations/violations immediately following the inspection when landfill personnel are available. The violations were communicated to you during the inspection. Since you interpreted the rule requirements differently, and per your request, the noted violations and photographs were raised to DMWM management. The violations observed on August 11, 2011 are consistent with DMWM's interpretation of the rule requirements. Please be advised, violations are expected to be abated as soon as possible, regardless of notice via a written letter. The delayed mailing of this inspection letter in no way diminishes the importance of abating violation of environmental laws and regulations. In the future, efforts will be made to provide written notice more timely to USA Waste.

Action Needed

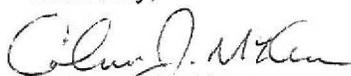
USA Waste needs to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, USA Waste is requested to provide documentation to this office including the steps taken to abate the violations cited above. Documentation of steps 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: colum.mckenna@epa.ohio.gov

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, USA Waste is requested to submit written correspondence of the steps that will be taken by date to attain compliance.

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release the owner or operator, or others, from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Resource Conservation and Recovery Act, or Comprehensive Environmental Response, Compensation, and Liability Act for remedying conditions resulting from any release of contaminants to the environment.

If you have any questions, please contact me by telephone at (330) 963-1268 or by e-mail at: colum.mckenna@epa.ohio.gov

Sincerely,



Colum J. McKenna
Environmental Specialist
Division of Materials and Waste Management

CJM:ddw

cc: John Hujar, DMWM, NEDO
Raymond Saporito, Ashtabula County Health Department
Jerry Ross, USA Waste
Scott Herman, USA Waste
Janice Switzer, Ashtabula County SWMD
File: [SOWERS/LAND/Geneva Landfill/COR/04]