



**Environmental
Protection Agency**

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

February 7, 2012

**JEFFERSON COUNTY
FAC - APEX SANITARY LANDFILL
NOV**

Apex Sanitary Landfill
P.O. Box 157
Amsterdam, OH 43903

Attention: Dave Mathews, General Manager

**Subject: Notice of Violation,
Failure to Control Odors and Implement Odor Management Plan**

Dear Mr. Matthews:

On February 1, 2012, Ohio Environmental Protection Agency (Ohio EPA) conducted limited odor monitoring on public roads surrounding Apex Sanitary Landfill. In particular, monitoring was performed from 11:18 a.m. to 1:30 p.m. February 1st. The odor monitoring was performed in response to chronic complaints about odors originating from the landfill and as a follow-up to the Director's Final Findings and Orders (DFFOs), journalized December 22, 2011. As summarized below, Ohio EPA's Erika Jackson assessed that distinct, definite and clearly detectable odors (odor intensity 2) were found at the date, time and location noted below.

February 1, 2012

• **At 12:50 p.m., at the cal-de-sac on Springfield Township Roads 267A**

Odors were evaluated with the Division of Materials and Waste Management's 0-4 odor intensity scale, with 4 being an odor so strong as to be overpowering and intolerable for any length of time, a 3 being an odor strong enough to cause a person to avoid it completely, a 2 being a distinct and definite odor whose characteristic is clearly detectable, a 1 being an odor concentration which is just barely detectable, and a 0 being a concentration of a odorant which produces no sensation.

Due to the presence of these offensive odors and Apex Environmental, LLC's failure to strictly control odors, Apex Sanitary Landfill is in continuing violation of Ohio Administrative Code (OAC) Rule 3745-27-19(B)(3). Apex Environmental, LLC is also in continuing violation of OAC Rule 3745-27-19(B)(2) and Ohio Revised Code (ORC) 3734.11(A) and (B) for failing to implement all appropriate odor monitoring practices, best management practices and control systems in order to control odors as required by the Odor Management Plan contained in the Apex Sanitary Landfill's Permit-to-Install No. 06-08438, approved December 31, 2009.

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OAC Rule 3745-27-19(B)(3) states "The owner or operator shall operate the facility in such a manner that noise, dust, and odors are strictly controlled so as not to cause a nuisance or a health hazard."

OAC Rule 3745-27-19(B)(2) states "The owner or operator shall conduct all construction and operation at a sanitary landfill facility in strict compliance with the applicable authorizing document, including (the) permit to install..."

ORC Section § 3734.11 states in part that, "(A) no person shall violate any section of this chapter, any rule adopted under it, or any order issued under Section 3734.13 of the Revised Code. (B) No person who holds a permit or license issued under this chapter shall violate any terms and conditions of the permit or license."

Apex Environmental, LLC needs to immediately take the necessary measures to return to compliance with Ohio's environmental laws and their Odor Management Plan.

Within 14 days of receipt of this letter, Apex Environmental, LLC is requested to provide documentation to SEDO 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 craig.walkenspaw@epa.state.oh.us.

Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with ORC Chapter § 3734 and rules promulgated thereunder may result in a civil penalty of up to \$10,000 per day for each violation. If circumstances delay the abatement of violations, Apex Environmental, LLC 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 phone at 740-380-5440.

Sincerely,



Craig Walkenspaw
District Engineer
Division of Materials and Waste Management

CW/sb

cc: Carla Gampolo, Jefferson County General Health District
Carl Mussenden, CO-DMWM