



**Environmental
Protection Agency**

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

February 14, 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, North Sedimentation Pond

Dear Mr. Matthews:

On February 9, 2012, Ohio Environmental Protection Agency's (Ohio EPA's) Rich Fox, Aaron Pennington and I, and Ohio Department of Natural Resources' Doug Evans and Mia Kannik jointly met with Apex Environmental, LLC's Scott Lockhart and Civil & Environmental Consultants, Inc.'s Rick Buffalini to discuss proposed changes to Apex Sanitary Landfill's North Sedimentation Pond's principal spillway and adjacent surface water structures. In particular, we were discussing how to reconfigure the spillway's outlet with respect to the adjacent inlet for the railroad right-of-way's box culvert which also services the pond's emergency spillway. Elimination of the pit, which is created by these two surface water structures, will improve surface water control and operations within the rail yard. With that, we had the opportunity to inspect the pond's earthen dam and outlet structures. We found several points of concern which included the backfilling of a portion of pond's emergency spillway, settlement of the dam's earthen embankment over the principal spillway's conveyance pipe, some loss of the integrity of the dam's internal slope, some woody growth on the dam's internal slope, and the dam's external toe of slope was saturated. The lack of weekly or monthly inspections and the performance of necessary repairs were apparent. I have incorporated a few photos taken February 9th and captions below.

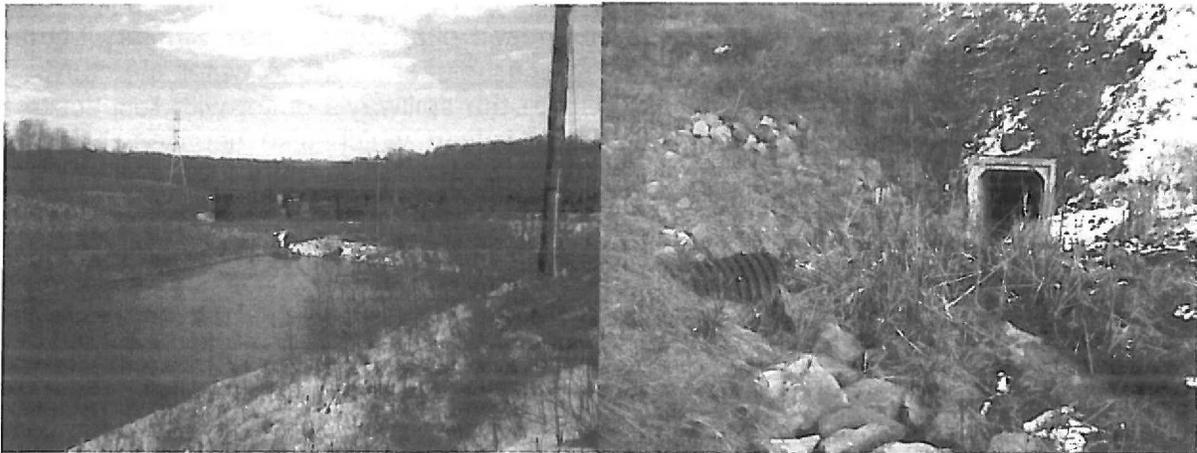
In part, Ohio Administrative Code (OAC) Rule 3745-27-19(E) (1) (c) states the following: The owner or operator shall maintain the integrity of the engineered components of the sanitary landfill facility and repair any damage to or failure of the components... Failed or damaged engineered components shall be investigated and reconstructed in strict compliance with the existing applicable authorizing documents. If a redesign is necessary, prior approval of an alteration or a modification shall be obtained.

And OAC Rule 3745-27-19(E)(11)(b) states the following: "The owner or operator shall inspect sedimentation ponds and sedimentation pond discharge structures, including pipes,

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ditches, and culverts at least weekly for erosion, clogging, or failure and take prompt corrective action, if necessary. Written results of the inspections, including a discussion of any corrective actions taken, any water quality samples taken, the date, and weather conditions, shall be recorded on the daily log forms required pursuant to paragraph (E)(10) of this rule and shall be made available to the health commissioner or the director upon request.”

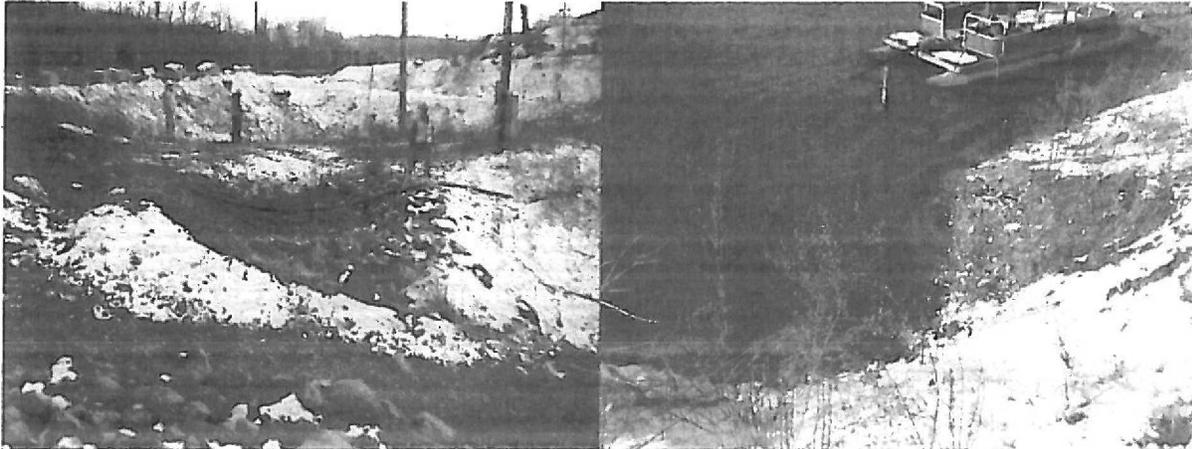
Furthermore, Condition No. 13(b) of Permit-to-Install (PTI) No. 06-08438, journalized December 31, 2009, states the following: “The permittee shall provide for the following inspections and facility maintenance: Surface water control structures, including sedimentation ponds, sedimentation pond discharge structures, pipes, ditches, and culverts, shall be inspected at least monthly for erosion, clogging, or failure and prompt corrective action shall be taken if necessary. Written results of the inspections, including a discussion of any corrective actions taken, any water quality samples taken, and the date and weather conditions, shall be recorded on the required daily log forms. The information shall be maintained on site and submitted to Ohio EPA or JCGHD upon request.”



North Sedimentation Pond

Spillway's Outlet & Railroad's Culvert Inlet

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Pond's Backfilled Emergency Spillway

Some Loss of Slope Integrity

Due to Apex Environmental, LLC's failure to maintain the engineering integrity of the North Sedimentation Pond, Apex Sanitary Landfill is in continuing violation of OAC Rule 3745-27-19(E)(1)(c). Apex Sanitary Landfill is in continuing violation of OAC Rule 3745-27-19(E)(11)(b) for the failure to inspect the North Sedimentation Pond at least weekly. And, Apex Sanitary Landfill is in continuing violation of PTI No. 06-08438's Condition No. 13(b) for the failure to inspect the North Sedimentation Pond monthly.

Furthermore, 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..."

And Ohio Revised Code (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."

It's my understanding that North Sedimentation Pond's emergency spillway was repaired later on the afternoon of February 9, 2012. Apex Environmental, LLC needs to immediately take the necessary measures to repair the pond's embankment and conveyance pipe, and to begin weekly and monthly inspection of all surface water control structures.

EROSION OF INTERMEDIATE COVER

Within the February 7, 2012 Notice of Violation (February 1, 2012 observations), Apex Environment, LLC was cited for the failure to protect intermediate cover from erosion and subsequently the continued violation of OAC Rule 3745-27-19(G)(4). As seen February 9th

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and pictured below, some mulch has been placed along the lower reaches of the exposed eastern slope. The balance of the eastern slope and the entire southern slope remain exposed and unprotected. This is a continuing violation as cited February 7, 2012.



Exposed Eastern Slope with Mulching in Progress

HAUL ROAD'S TWO-WAY PASSAGE OF VEHICLES

Within the October 5, 2005 Alteration to PTI No. 06-6219, the return loop haul road to the proposed rail unloading facility was eliminated. Alternately, the remaining haul road was designed to allow the "two-way passage of vehicles." Originally at Apex Sanitary Landfill and conventionally at landfills, truck traffic is routed across scales only if the load is to be weighed and all other traffic is routed around the scales.

Based on observations made January 25th, February 1st and 9th, the haul road adjacent to

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the railroad yard's scale has not been maintained with an adequate width and has been reduced to a single lane of passage (typically, inbound) and outbound traffic has been routed over the scales. Reportedly, all inbound intermodal containers are pre-weighed which would allow the diversion of those loads around the railroad yard's scale. With the usage of the scale as a haul road, the accumulation of mud on and around the scale has become problematic. The scale is narrow and elevated which require great caution to traverse with heavy and wide loads. Below is a photo taken February 9th that shows the haul road and scale with some repair being made to the haul road.

Without citation, I am requesting that the haul road adjacent to the railroad yard's scales be repaired to reestablish two-way passage of vehicles and that all pre-weighed loads be routed directly on to the haul road.



Narrow Haul Road Adjacent to the Rail Yard's Scale

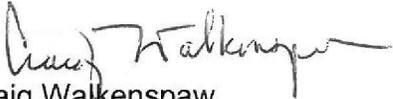
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Within 14 days of receipt of this letter, Apex Environmental, LLC is requested to provide documentation to the Southeast District Office including the steps taken to abate the violations cited above. Documentation of steps taken to return to compliance includes written correspondence, updated policies and photographs, as appropriate, and may be submitted via the postal service or electronically to craig.walkenspaw@epa.state.oh.us.

Please be advised that violations cited above will continue until the violation has 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
cc: Carl Mussenden, CO-DMWM
cc: Doug Evans, P.E.
ODNR-Division of Soil & Water Resources
2045 Morse Road, Building B
Columbus, Ohio 43229