



**Environmental
Protection Agency**

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

March 13, 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 March 7, 2012, Ohio Environmental Protection Agency (Ohio EPA) and the Jefferson County General Health District conducted limited odor monitoring on public roads near Apex Sanitary Landfill. Prior to our arrival at the landfill, the health department's Marc Maragos had performed odor monitoring. Just after 12:15 p.m., Mr. Maragos was able to direct the health department's Carla Gampolo and I to the area of the worst recent odors so we could make an independent assessment. This periodic 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, I was able to assess distinct, definite and clearly detectable landfill odors (odor intensity 2) at the noted date, time and location. In addition, Mrs. Gampolo and I were able to make a limited inspection of the landfill to make observations relative to prior cited and continuing violations.

March 7, 2012

- **At 12:30 p.m., Ohio EPA's Monitoring Point #8 (hill-top turn-off at Corn Field's Drive) on Springfield Township Roads 267 (Red Dog Road).**

I could smell some odor control agent just west of Monitoring Point #8 on Red Dog Ridge Road. The hill's relative height created something of an odor divide because odors were prevalent just east of the high point and then hundreds of yards down Red Dog Ridge Road. The odor was a "working face odor" and not a "landfill gas odor." From that vantage point, the landfill's working face appeared across a good portion of the final lower northern slope's crest which was just beginning to form the Vertical Expansion's "Odor Control Bench." The wind was strong and appeared to be north to northwest.

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After entering the landfill, Mrs. Gampolo and I informed you of our intent to cite the landfill for the failure to control odors based on our recent monitoring. Subsequently, we were able to visit the working face. Along the western limit of the working face, one of the two Jacto agricultural sprayers had run empty of water. The operating Jatco was likely the source of the odor control agent I smelled earlier. Along the eastern limit of the working face, the HVMU (High Volume Misting Unit) was stationed but appeared to be not operational. The lack of adequate odor control equipment appears to have contributed to the odors monitored off-site.

The off-site 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 (PTI) No. 06-08438, approved December 31, 2009.

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.

North Sedimentation Pond

Within Ohio EPA's February 14, 2012 Notice of Violation (February 9, 2012

observations), Apex Environmental, LLC was cited for the continuing violation of OAC Rule 3745-27-19(E)(1)(C) for the failure to maintain the engineering integrity of the North Sedimentation Pond's dam. Subsequently, repairs have been made to the pond's emergency spillway and earthen embankment, and the woody growth has been removed. At this time, Apex Environmental, LLC appears to have returned to substantial compliance relative to OAC Rule 3745-27-19(E)(1)(C) and the North Sedimentation Pond.

At this time, no further assessment has occurred relative to Apex Environmental, LLC's compliance with the weekly and monthly surface water structures inspection required by OAC Rule 374527-19(E)(11)(b) and PTI No. 06-08438's Condition No. 13(b), respectively.

Protection 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). To date, much work has occurred to re-grade and mulch portions of the western and southern slopes. Some areas have been re-graded with screened material prior to mulching. Weather depending, additional work should occur during the next week. Some areas of intermediate cover remain exposed and unprotected.

Haul Road's Two-Way Passage of Vehicles

Within Ohio EPA's February 14, 2012 Notice of Violation (February 9, 2012 observations), Apex Environmental, LLC was cautioned about maintaining the haul road adjacent to the railroad yard's scales to provide for the two-way passage of vehicles. I referenced the October 5, 2005 Alteration to PTI No. 06-6219 which revised the original design of the rail yard from two access roads down to a single access road capable of handling two-way with traffic. Within Apex Environmental, LLC's February 28, 2012 response to the February 14, 2012 Notice of Violation, reference was made to page C8-1 (narrative) within the Vertical Expansion. In checking the Southeast District Office's stamped approved copy of the PTI, I have found an apparent insistency with the referenced page. Our page C8-1 was last revised January, 2009 and refers to site access and temporary roads being sized to accommodate two-way traffic.

The proposed third rail yard alteration will likely revise page C8-1, so we should gain clarity relative to the issue of maintaining two-way traffic or possibly a reduction to one-way traffic with the proposed return to the second access road.

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

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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