



State of Ohio Environmental Protection Agency

Northwest District Office

347 North Dunbridge Road
Bowling Green, OH 43402-9398

TELE: (419) 352-8461 FAX: (419) 352-8468
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korteski, Director

June 24, 2008

Mr. Kenneth Humphrey
Environmental Director
Envirosafe Services of Ohio, Inc.
876 Otter Creek Road
Oregon, Ohio 43616-1200

**Subject: Waterline Trench Monitoring Program Inspection Violations
ESOI Otter Creek Road Facility
OHD 045 243 706
RCRA Hazardous Waste
Lucas County**

Dear Mr. Humphrey:

At the conclusion of each of the three (3) most recent Compliance Evaluation Inspections (CEIs), Ohio EPA has expressed, in exit interview discussions and/or in writing (CEI checklists or Areas of Concern), our concerns with the methods that ESOI uses to determine that the liquid levels in the waterline trench sumps are below the invert elevation of the raw waterlines.

Subsequent to a March 12, 2008 meeting with you during which we discussed deficiencies in ESOI's latest response to Ohio EPA's concerns about the waterline inspections and a March 28, 2008 letter from Ohio EPA that requested ESOI "to provide the spreadsheets showing the level measurements for the waterline trenches and the inspection forms (WL-100) from April 1, 2006 to present" so that Ohio EPA could review the inspection forms and the spreadsheets for consistency with each other, Ohio EPA received the requested inspection forms and waterline monitoring trench water elevation spreadsheets from ESOI on April 29 and 30, 2008. Ohio EPA reviewed these documents on April 30, 2008 and in a second meeting with you on that date, Ohio EPA determined that neither the water elevation spreadsheets nor the inspection forms (WL-100) accurately represented the conditions in either the monitoring trench collection sumps or the dewatering trench collection sumps at the time that ESOI conducted the inspections. On April 30, 2008, Ohio EPA requested that ESOI provide the field logs that the inspectors used to record the "depth to water" measurements for the waterline trench sumps from April 1, 2006 to present. As of May 7, 2008, ESOI had provided these logs and Ohio EPA began its review of all of these records.

Ohio EPA reviewed these records to determine ESOI's compliance with Ohio's hazardous waste laws as found in Chapter 3734 of the Ohio Revised Code (ORC) and Chapter 3745 of the Ohio Administrative Code (OAC), and ESOI's approved December 29, 2005, Ohio Hazardous Waste Facility Installation and Operation Permit (permit).

After consideration of the information provided by ESOI, Ohio EPA has determined that ESOI is in violation of the following conditions of the facility's hazardous waste permit and/or Ohio's hazardous waste rules and laws:

1. **Permit Condition A.9 and ORC 3734.11**

Permit Condition A.9 states in part, "The Permittee must at all times properly operate and maintain the facility (and related appurtenances) to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes effective management practices, adequate funding, adequate operator staffing and training, and where appropriate adequate laboratory and process controls, including appropriate quality assurance/quality control procedures."

From at least April 1, 2006 through April 28, 2008, ESOI failed to employ effective management practices, appropriately implement existing written standard operating procedures, accurately record and report to the Toledo Division of Environmental Services and to the Ohio EPA the conditions in the monitoring and dewatering trenches, and provide adequate staff training and oversight to ensure the following:

- A. The proper and accurate completion of Weekly Inspection Form WL-100.
- B. The development and proper implementation of standard operating procedures to ensure that liquid levels in the dewatering trenches did not exceed the invert elevation of the waterlines.
- C. The proper maintenance and retention of inspection records.
- D. The reporting of any instances of noncompliance to the director.

2. **Permit Condition A.14(a) and OAC Rule 3745-50-58(J)**

Permit Condition A.14(a) states in part, "The Permittee must retain records of all monitoring information ... for a period of at least three years from the date of the sample, measurement, report, certification or application."

In a letter dated March 28, 2008, Ohio EPA requested ESOI "to provide the spreadsheets showing the level measurements for the waterline trenches and the inspection forms (WL-100) from April 1, 2006 to present" so that Ohio EPA could review the inspection forms and the spreadsheets for consistency with each other. On April 29 and 30, 2008 ESOI provided a portion of these requested documents.

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For calendar year 2006, ESOI was able to provide the City of Toledo Raw Waterline Security Agreement Weekly Inspection Form WL-100 (Form WL-100) for April 1, 2006 through December 26, 2006. However, ESOI could only provide records of the City of Toledo Raw Water Line Monitoring Trench Water Elevation Report for the weeks of April 1, 2006 through May 29, 2006 and the weeks of September 20 and 27, 2006. ESOI uses this water elevation report spreadsheet to evaluate the "depth to water" measurements that ESOI staff record in field logs in order to determine if liquid levels in the monitoring and dewatering trenches exceed the invert elevation of the City of Toledo raw waterlines.

For calendar year 2007, ESOI was able to provide Form WL-100 for the entire year from January 2, 2007 through December 31, 2007. ESOI could only provide records of the water elevation report spreadsheets from April 9, 2007 through December 31, 2007.

For calendar year 2008, ESOI was able to provide both the Form WL-100 and the water elevation report spreadsheets from January 7, 2008 through April 21, 2008.

During Ohio EPA's review of these documents on April 30, 2008, it was determined based upon a conversation with you, that the information recorded on these inspection forms and spreadsheets did not represent the actual elevation of the liquids in the waterline trench sumps at the times that these inspections were conducted. As a result, on April 30, 2008 Ohio EPA requested that ESOI provide the field logs that the inspectors used to record the "depth to water" measurements for the waterline trench sumps from April 1, 2006 to present. On May 7, 2008, ESOI provided a portion of the requested field logs. ESOI was only able to provide liquid level measurements from the waterline trench sumps from April 9, 2007 through April 28, 2008.

As of the date of this letter, ESOI has not provided any field log measurements from April 1, 2006 through April 2, 2007. ESOI has also not provided the City of Toledo Raw Water Line Monitoring Trench Water Elevation Report from June 5, 2006 through April 2, 2007.

3. Permit Condition A.22 and ORC Section 3734.11(B)

Permit Condition A.22 states that, "the Permittee must report to the director all other instances of noncompliance not provided for in Permit Conditions A.19 and A.20. These reports must be submitted within 30 days of the time at which the Permittee is aware of such noncompliance. Such reports must contain all information set forth within Permit Condition A.20."

Ohio EPA's review of the field logs for the waterline trenches identified twenty-one (21) separate instances when the liquid level in one of the dewatering trench sumps exceeded the invert elevation of the raw waterlines (see enclosed spreadsheet). Each of these instances is a violation of Permit Condition G.3(b). Permit Condition A.22 requires ESOI to notify the director of each of these occurrences. ESOI did not report any of these instances to the director as required in Permit Condition A.22.

4. Permit Condition A.28(a)(vi) and OAC Rule 3745-54-73(B)(5)

Permit Condition A.28(a)(vi) requires the Permittee to maintain an operating record as required by OAC Rule 3745-54-73 and the terms and conditions of this permit. This operating record must include inspection records maintained at the facility for at least three years from the date of the inspection.

ESOI could not provide the requested records for the measurements taken in 2006 (April 1, 2006 through December 26, 2006), or for measurements taken in 2007 (January 2, 2007 through April 2, 2007) as represented on form WL-100 and/or the City of Toledo Raw Water Line Monitoring Trench Water Elevation Report.

5. Permit Condition B.5 and OAC Rule 3745-54-15(B)(1)

Permit Condition B.5 states in part that, "The Permittee must follow the inspection schedule set forth in Section F of the permit application."

During the week of April 9, 2007, dewatering trench Phase 5W was not inspected within seven days as required by this permit condition (according to form WL-100 and the inspector's field log, inspections took place nine days apart on April 2, 2007 and April 11, 2007). During the week of April 16, 2007, none of the monitoring or dewatering trenches were inspected within a seven day period (nine to eleven days apart from April 9 or April 11 until liquid levels were measured on April 20, 2007).

6. Permit Condition B.5(b) and OAC Rule 3745-54-15(D)

Permit Condition B.5(b) requires the Permittee to keep records of inspections as required by OAC Rule 3745-54-15(D), the terms and conditions of this permit, and the permit application.

ESOI could not provide the requested records for the measurements taken in 2006 (April 1, 2006 through December 26, 2006), or for measurements taken in 2007 (January 2, 2007 through April 2, 2007) as represented on form WL-100 and/or the City of Toledo Raw Water Line Monitoring Trench Water Elevation Report.

7. **Permit Condition G.3(b)**

Permit Condition G.3(b) states in part, "For dewatering trenches, the Permittee must keep liquid levels in the trenches below the bottom of the adjacent waterline."

Ohio EPA's review of the field logs (from April 9, 2007 through April 28, 2008) for the waterline trenches identified twenty-one (21) separate instances when the liquid level in one of the dewatering trench sumps exceeded the invert elevation of the raw waterlines (see enclosed spreadsheet). In sixteen of the twenty-one instances, ESOI did not indicate on the inspection form or the City of Toledo Raw Water Line Monitoring Trench Water Elevation Report that the invert elevation had been exceeded. In at least sixteen of these instances, ESOI represented to both the Toledo Division of Environmental Services and the Ohio EPA that the liquid levels in the dewatering trench sumps were below the invert elevation of the raw waterlines and that conditions in the dewatering trench sumps were "OK" at the time that these inspections were conducted. During meetings with Ohio EPA staff on March 12 and April 30, 2008, you explained that ESOI staff completed form WL-100 in this manner because they knew that ESOI would be removing the liquids from the dewatering trench sumps later during the week.

8. **Permit Condition G.4(a)(v)**

Permit Condition G.4(a)(v) requires the Permittee to inspect the monitoring and dewatering trenches at least once every seven (7) days for the presence of liquids.

During the week of April 9, 2007, dewatering trench Phase 5W was not inspected within seven days as required by this permit condition (according to form WL-100 and the inspector's field log, inspections took place nine days apart on April 2, 2007 and April 11, 2007). During the week of April 16, 2007, none of the monitoring or dewatering trenches were inspected within a seven day period (nine to eleven days apart from April 9 or April 11 until liquid levels were measured on April 20, 2007).

Additional Concerns

In addition to the violations listed above, Ohio EPA has concerns with a significant number of additional inaccuracies discovered during the review of ESOI's waterline trench inspection records (form WL-100, City of Toledo Raw Water Line Monitoring Trench Water Elevation Report, and the waterline trench field logs).

Ohio EPA's review of the field logs (from April 9, 2007 through April 28, 2008) for the waterline trenches identified twenty-two (22) separate instances when the liquid level in one of the monitoring trench sumps exceeded the invert elevation of the raw waterlines (see enclosed spreadsheet). In seventeen (17) of these instances, ESOI made no mention of these excursions either on form WL-100 or on the City of Toledo Raw Water Line Monitoring Trench Water Elevation Report and instead identified conditions in the monitoring trench sumps as "acceptable" at the time of the inspection.

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Ohio EPA also found thirty-four (34) additional instances where the depth to water measurement data in the field logs was either missing (1 instance) or did not match the measurements reported on the City of Toledo Raw Water Line Monitoring Trench Water Elevation Report (33 instances) for the monitoring trench and dewatering trench sumps (see enclosed spreadsheet).

During the April 30, 2008 meeting in which Ohio EPA reviewed the inspection forms (WL-100) and the City of Toledo Raw Water Line Monitoring Trench Water Elevation Reports, Ohio EPA also reviewed some of ESOI's Standard Operating Procedures (SOPs) for the Low Pressure Waterline Security Agreement. Ohio EPA's review of these SOPs (WL-100 Otter Creek Facility Waterline Easement Inspection Plan – dated May 2002; WL-400 Monitoring Trench Evacuation Procedure – dated November 1999; WL-410 Invert Excursion Notification – dated November 1999) and the discussion that followed with you indicated that ESOI was not following the liquid level measurement schedule for the waterline trench sumps or the notification procedures for excursions above the invert elevation of the waterlines as outlined in ESOI's SOPs.

ESOI must do the following to return to compliance:

1. ESOI must reevaluate its current SOPs for the measurement and removal of liquids from the waterline trench sumps and develop new procedures that will proactively monitor and remove liquids from the dewatering sumps to ensure that the liquid levels in these sumps does not exceed the invert elevation of the City of Toledo raw waterlines.
2. ESOI must conduct and document training for staff involved in the measurement and removal of liquids from the waterline trench sumps, as well as training in the accurate completion of form WL-100 and the City of Toledo Raw Water Line Monitoring Trench Water Elevation Report (so that these documents represent the actual conditions observed at the time inspections are conducted) to ensure competency in the new SOPs.
3. ESOI must submit a permit modification to modify Form WL-100 to include a chart showing the depth of the adjacent waterline invert at each sump, the depth to water measurement in each dewatering trench sump and an indication if the invert elevation is exceeded for each sump.

ESOI should respond to this letter within fourteen (14) days of receipt. Your response should include proposed remedies and/or timelines for rectifying the above violations.

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If you have any questions, please contact me via email at chris.maslo@epa.state.oh.us or by telephone at (419)698-3130.

Sincerely,



Chris Maslo
Division of Hazardous Waste Management

/cs

Enclosure

pc: Cindy Lohrbach, DHWM, NWDO
Tammy Heffelfinger, DHWM, CO (w/enc.)
Fran Kovac, Legal, CO (w/enc.)
Harry Sarvis, DHWM, CO (w/enc.)
Matt Epperson, TDES (w/enc.)
Mayor Marge Brown, City of Oregon
~~DHWM, NWDO File - Inspections/NOV File (w/enc.)~~

ec: John Pasquarette, DHWM, NWDO
Gary Deutschman, DHWM, NWDO
Michael Terpinski, DHWM, NWDO
Chris Maslo, DHWM, NWDO
Shannon Nabors, Chief, NWDO
Jeremy Carroll, DHWM, CO
Dale Meyer, U.S. EPA, Region 5
Jae Lee, U.S. EPA, Region 5
NWDO Follow-up File

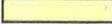
NOTE: Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with all applicable regulations.

4/9/07 - 4/30/08

Date of Inspection	Monitoring Trenches							Dewatering Trenches					
	Trench 1 E (1N)	Trench 1 M (2N)	Trench 1 W (3N)	Trench 2 E (1S)	Trench 2 M (2S)	Trench 2 W (3S)	Trench 6 (8N)	Phase 3 E (4N)	Phase 3 W (5N)	Phase 4 E (4S)	Phase 4 W (5S)	Phase 5 E (6N)	Phase 5 W (7N)
4/9/2007			4/9/2007; exceeds invert										Not measured on 4/9/2007; > 7 days & may have exceeded invert PC G.4 (a)(v)
4/16/2007	4/16/2007; water levels were not measured until 4/20/07 (> 7 days) PC G.4 (a)(v)	4/16/2007; water levels were not measured until 4/20/07 (> 7 days) PC G.4 (a)(v)	4/16/2007; water levels were not measured until 4/20/07 (> 7 days) PC G.4 (a)(v)	4/16/2007; water levels were not measured until 4/20/07 (> 7 days) PC G.4 (a)(v)	4/16/2007; water levels were not measured until 4/20/07 (> 7 days) PC G.4 (a)(v)	4/16/2007; water levels were not measured until 4/20/07 (> 7 days) PC G.4 (a)(v)	4/16/2007; water levels were not measured until 4/20/07 (> 7 days) PC G.4 (a)(v)	4/16/2007; water levels were not measured until 4/20/07 (> 7 days) PC G.4 (a)(v)	4/16/2007; water levels were not measured until 4/20/07 (> 7 days) PC G.4 (a)(v)	4/16/2007; water levels were not measured until 4/20/07 (> 7 days) PC G.4 (a)(v)	4/16/2007; water levels were not measured until 4/20/07 (> 7 days) PC G.4 (a)(v)	4/16/2007; water levels were not measured until 4/20/07 (> 7 days) PC G.4 (a)(v)	4/16/2007; water levels were not measured until 4/20/07 (> 7 days) PC G.4 (a)(v)
5/7/2007							5/7/07; exceeds invert						
5/14/2007							5/14/07; exceeds invert						
5/28/2007												5/29/07; exceeds invert	
6/11/2007							6/11/07; exceeds invert						
7/2/2007									Field log and report do not match		Field log and report do not match	Field log and report do not match	
8/6/2007		Field log and report do not match											
8/13/2007										Field log and report do not match			
8/20/2007							8/20/07; exceeds invert				8/20/07; exceeds invert		
8/27/2007									Field log and report do not match	Field log and report do not match	8/27/07; exceeds invert		
8/31/2007											Field log and report do not match	Field log and report do not match	Field log and report do not match
9/10/2007							9/10/07; exceeds invert						

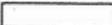
11/26/2007							11/26/07; exceeds invert	No record in Field log for P3W				
12/3/2007							12/3/07; exceeds invert			12/3/07; exceeds invert		
12/17/2007						12/17/07; exceeds invert	12/17/07; exceeds invert					
12/24/2007										12/24/07; exceeds invert		
12/31/2007							12/31/07; exceeds invert					
1/14/2008	Field log and report do not match	Field log and report do not match	1/14/08; exceeds invert	Field log and report do not match	Field log and report do not match	Field log and report do not match				1/14/08; exceeds invert		Field log and report do not match
1/21/2008	Field log and report do not match	Field log and report do not match	Field log and report do not match	1/21/08; exceeds invert	1/21/08; exceeds invert	Field log and report do not match				1/21/08; exceeds invert		Field log and report do not match
1/28/2008										1/28/08; exceeds invert		
2/4/2008							Field log and report do not match	2/4/08; exceeds invert		2/4/08; exceeds invert	2/4/08; exceeds invert	
2/11/2008		Field log and report do not match	Field log and report do not match							2/11/08; exceeds invert		
2/25/2008			2/25/08; exceeds invert					2/25/08; exceeds invert		2/25/08; exceeds invert		
3/3/2008							3/3/08; exceeds invert			3/3/08; exceeds invert	Field log and report do not match	Field log and report do not match
3/17/2008	Field log and report do not match		3/17/08; exceeds invert							3/17/08; exceeds invert		
3/24/2008						Field log and report do not match						
3/31/2008							3/31/08; exceeds invert - WL- 100 does identify two trenches over the invert on 3/31/08			3/31/08; exceeds invert - WL- 100 does identify two trenches over the invert on 3/31/08		Field log and report do not match

4/7/2008		4/7/08; exceeds invert - WL- 100 does identify four trenches over the invert on 4/7/08	4/7/08; exceeds invert - WL- 100 does identify four trenches over the invert on 4/7/08		4/7/08; exceeds invert - WL- 100 does identify four trenches over the invert on 4/7/08			4/7/08; exceeds invert - WL- 100 does identify four trenches over the invert on 4/7/08					
4/14/2008							4/14/08; exceeds invert - WL- 100 does identify two trenches over the invert on 4/14/08					4/14/08; exceeds invert - WL- 100 does identify two trenches over the invert on 4/14/08	
4/28/2008								4/28/08; exceeds invert - WL- 100 does identify two trenches over the invert on 4/28/08				4/28/08; exceeds invert - WL- 100 does identify two trenches over the invert on 4/28/08	

 Cells that read "date; exceeds invert" and are highlighted in yellow indicate that form WL-100 was completed to say that the liquid levels in the monitoring trenches or the dewatering trenches was below the invert when in fact it exceeded the invert. When this occurs on the right side of the spreadsheet (in the Dewatering Trenches) this is a violation of PC G.3(b). In other words, the inspection form does not accurately represent the conditions at the time of the inspection.

 Cells that read "date; exceeds invert - WL-100 identifies X trenches over the invert" and are highlighted in red/pink (monitoring trenches) indicate a response on form WL-100 does not accurately represent the conditions at the time of the inspection.

 Cells that read "date; exceeds invert - WL-100 identifies X trenches over the invert" and are highlighted in orange (dewatering trenches) indicate a violation of PC G.3(b), but not a records falsification.

 Cells that read "Field log and report do not match" indicate that the measurements from the field notes do not match the data entered into the spreadsheet (for that specific trench) that ES&I uses to determine if the invert elevation has been exceeded.