

**Environmental
Protection Agency**

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

Re: City of Sandusky/Tricor Marina/Son Rise Marina
Hazardous Waste
Erie County

May 16, 2012

Mr. Todd Roth,
Director of Planning, Engineering and Development
City of Sandusky
222 Meigs Street
Sandusky, Ohio 44870

Ms. Kula Hoty Lynch, Corporate Counsel
Hoty Enterprises, Inc.
4918 Milan Road
Sandusky, Ohio 44870

Dear Mr. Roth and Ms. Lynch:

Thank you for your April 19, 2012, response to Ohio EPA's March 29, 2012, Notice of Violation (NOV). On April 20, 2012, via email Mr. Todd Roth submitted a Sampling and Analysis Plan prepared by Partners Environmental (Partners) for the Son Rise Marina Stockpiles dated April 19, 2012, to me. Likewise, I received a hard copy of this plan on April 24, 2012. This plan was submitted in response to the March 29, 2012, NOV, from Ohio EPA and addressed the waste evaluation violation for the above stockpiles in question.

The City of Sandusky (COS) and Hoty Commercial Builder, Ltd. (Hoty) submitted a sampling and analysis plan which differed from the sampling and analysis outlined in the March 29, 2012, NOV. In summary, most notably the COS requested to sample eight (8) total samples (five from Stockpile 1 and three from Stockpile 2) versus the eighteen as outlined in the March 29, 2012, NOV and to analyze for metals (both totals and TCLP) as constituents of concern (COCs) versus metals, semi-volatile organics (SVOCs) and volatile organics (VOCs) as outlined in the March 29, 2012, NOV.

The following is a summary of the violation cited in my March 29, 2012, NOV, and your compliance to date:

1. OAC Rule 3745-52-11, Waste Evaluation.

The COS and Hoty failed to evaluate the waste dredge material to determine if it was a hazardous waste.

Mr. Todd Roth
Ms. Kula Hoty Lynch
May 16, 2012
Page 2

COS submitted a sampling and analysis plan on April 20, 2012, in response to the violation of OAC rule 3745-52-11, failing to make a hazardous waste determination.

A review of this plan does not meet the criteria of a representative sampling for this waste, in accordance with OAC rule 3745-52-11. Ohio EPA offers the following comments regarding the plan and modifications to the sampling plan which would meet the criteria for representative sampling for this waste:

COS and Hoty state within their sampling and analysis plan that according to the work completed under the Voluntary Action Program (VAP) project that SVOCs and VOCs are not COCs. Ohio EPA does not agree that there is enough information to eliminate SVOCs and VOCs from consideration. Ohio EPA believes COS and Hoty generally failed to provide any conclusive information to Ohio EPA that the waste taken to Son Rise Marina was the same waste sampled under the VAP project. Furthermore, there is information which demonstrates that the waste at the Son Rise location came from dredging a different location than the dredge location which was done for the VAP project. Therefore, sampling data taken for purposes of the VAP project waste cannot be used to make conclusive hazardous waste determinations regarding the hazardous waste constituents potentially contained in the waste disposed at the Son Rise Marina location.

To properly evaluate this waste stream, Ohio EPA recommends COS and Hoty employ the following sampling strategy to ensure the waste is properly evaluated for purposes of OAC Rule 3745-52-11. While these changes to the sampling plan are not required, Ohio EPA believes that if these changes are made, it would ensure the waste at Son Rise Marina is properly evaluated.

Ohio EPA considers the waste piles below as two different disposal units thus they will be evaluated and managed as such.

Stockpile 1

Collect a minimum of ten (10) samples from the larger "pile" (Stockpile SP1). Of these ten (10) samples, analyze six (6) for the hazardous waste constituents listed in OAC rule 3745-51-24 in accordance with U.S. EPA's SW-846 (methods 1311 TCLP and 6010 for metals including 7470-7471 for mercury; methods 1311 TCLP and 8270C for SVOCs; and methods 1311 TCLP and 8260B VOCs, respectively).

Mr. Todd Roth
Ms. Kula Hoty Lynch
May 16, 2012
Page 3

The remaining four (4) samples that will be analyzed for TCLP metals and TCLP SVOCs collected from Stockpile 1 may be held and later sampled, if needed, for purposes of waste determination based upon the results of the initial six (6) samples. VOCs will not be required to be analyzed if the additional samples are needed, as they may have exceeded analysis holding times.

Stockpile 2

Collect a minimum of eight (8) samples from the smaller "pile" (Stockpile SP2). Of these eight (8) samples, analyze four (4) for the hazardous waste constituents listed in OAC rule 3745-51-24 in accordance with U.S. EPA's SW-846 (methods 1311 TCLP and 6010 for metals including 7470-7471 for mercury; methods 1311 TCLP and 8270C for SVOCs; and potentially methods 1311 TCLP and 8260B VOCs, respectively). The remaining four (4) samples that will be analyzed for TCLP metals and TCLP SVOCs collected from Stockpile 2 may be held and later sampled, if needed, for purposes of waste determination based upon the results of the initial four (4) samples. VOCs will not be required to be analyzed if the additional samples are needed, as they may have exceeded analysis holding times.

The sampling conducted must be representative of the waste in question which entails that samples should be taken throughout the waste's volume. Surface samples alone would not be sufficient to represent the waste. The samples, if possible, should be taken randomly at varying depths but if the soil thickness is so shallow that this is not practical, then samples acquired at the interface between the native material (soil already located at Son Rise Marina) and the dredge material from the Tricor Marina project may be the best option for representative samples.

In the April 19, 2012, response, Partners states that the Stockpiles are at most 1-2 feet deep. Based on this, composite sampling was contemplated by COS and Hoty. Because of the need for VOC samples to be taken, Ohio EPA would recommend against this sampling technique.

Sampling locations on Figure 2 should be updated to include the eighteen collection sites.

These aspects of developing a sampling and analysis plan should also include a section on quality control and assurance. Partners did discuss some aspects of quality control; however, one aspect of a field sampling program that was not included is an assessment of precision. Therefore, Ohio EPA would recommend that a field duplicate be included within the sampling plan.

Mr. Todd Roth
Ms. Kula Hoty Lynch
May 16, 2012
Page 4

The frequency of acquisition and criteria for assessment should be included within the plan. For analytical assessment of precision and the potential matrix problems from the waste, at least one sample should be required to be utilized for the Matrix Spike/Matrix Spike Duplicate sample for an analytical batch.

Sample results should be reported with enough quality data for Ohio EPA to assess the data. For example, all bench sheets associated with TCLP extraction should be included in the data report. More information on quality control requirements and data validation can be found at <http://epa.ohio.gov/portals/32/pdf/TierIDVManual.pdf>.

Comment

If the results demonstrate the dredged waste is not a hazardous waste, you should contact Mike Reiser, Environmental Supervisor, Division of Materials and Waste Management at (419) 373-3126 or mike.reiser@epa.ohio.gov to determine if the dredged waste is subject to any other regulations. Other programs may require additional sampling if the dredged waste is left in place. Currently, the last information conveyed to Ohio EPA was if the dredged waste was determined to be non-hazardous, the dredged waste would be graded, seeded and left in place.

Within seven (7) days of your receipt of this letter, please respond with your revised sampling and analysis plan which outlines the requirements as listed above [including eighteen samples and metals, SVOCs and VOCs (TCLP

When you perform sampling, Ohio EPA will use the data you provide, in addition to other documentation, to make regulatory decisions concerning the wastes tested.

The data you submit should be reviewed using a data review process, referred to as data validation, to confirm the validity of your data prior to submission. Data validation includes a review of the following components: laboratory test methods, laboratory data completeness, documentation of holding time(s), chain(s) of custody, and quality assurance/quality control (QA/QC) data.

To confirm the validity of your data, you may use Ohio EPA's tier 1 data validation plan review form which can be obtained from Ohio EPA's web page: <http://epa.ohio.gov/portals/32/pdf/AppendixIIChecklist.pdf>. Ohio EPA may request the documentation needed to confirm the validity of the data submitted.

When sampling is performed, please notify me at least five days prior to taking the samples so that I or an Ohio EPA representative may be present.

Mr. Todd Roth
Ms. Kula Hoty Lynch
May 16, 2012
Page 5

Please address all correspondence via the postal service to Amber Hicks, Ohio EPA, 347 N. Dunbridge Road, Bowling Green, Ohio 43402 or electronically to amber.hicks@epa.ohio.gov. Should you have any questions, please feel free to call me at (419) 373-3082 or email me at amber.hicks@epa.ohio.gov.

You can find copies of the rules and other information on the division's web page at <http://www.epa.ohio.gov/dmwm.aspx>.

Sincerely,



Amber M. Hicks
Division of Materials and Waste Management

/llr

pc: Cindy Lohrbach, DMWM, NWDO
~~Colleen Weaver, DMWM, NWDO~~

ec: Amber Hicks, DMWM, NWDO
John Pasqualette, DMWM, NWDO
Colleen Weaver, DMWM, NWDO
Mike Reiser, DMWM, NWDO
Mitch Mathews, DMWM, CO
Brian Patterson, DERR, NWDO
Elizabeth Wick, DSW, NWDO
Erik Hagen, DERR, CO
Eric Getz, DO, NWDO

NOTICE:

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.