Ohio Environmental Protection Agency
John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

September 12, 2012

RE: SUMMIT C&D DISPOSAL
RESPONSE TO APRIL 25, 2012 LETTER
NOTICE OF VIOLATION

John R. Eslich
Summit C&D Disposal, Inc.
3525 Broadway Ave. NE
Louisville, Ohio 44641

CERTIFIED MAIL 7012 1010 0002 2260 2516

Patrick J. Loper II, P.E
Bowser-Morner Associates, Inc.
4518 Taylorsville Road
P.O. Box 51
Dayton, Ohio 45401-0051

CERTIFIED MAIL 7012 1010 0002 2260 2523

Dear Mr. Eslich and Mr. Loper:

Ohio Environmental Protection Agency (Ohio EPA) reviewed a document regarding Summit C&D Disposal, Inc., from Bowser-Morner on behalf of Summit C&D Disposal, Inc. (Facility). The Facility is located at 1947 Wadsworth Road, Norton. This letter provides Ohio EPA's review results of the following document:

- Combined Response to Ohio EPA's February 8, 2012 Notice of Violation and February 13, 2012 "Notice of Acknowledgement," dated April 25, 2012.

Ohio EPA has reviewed the subject document listed above. The document was received by Ohio EPA on April 26, 2012. The document was prepared by Walter & Haverfield, LLP on behalf of Summit C&D Disposal, Inc. (Respondent). It contains responses to two Ohio EPA correspondence letters. One, a *Notice of Violation* dated February 8, 2012, is regarding the operation of the leachate management system; the second, a *Notice of Acknowledgement* dated February 13, 2012, is regarding the Respondent's suspension of construction activities associated with the standard cap system.

The Summit C&D Disposal, Inc. Landfill ground water monitoring program is regulated by the Construction and Demolition Debris Regulations (Ohio Administrative Code [OAC] 3745-400-10), effective August 31, 2002.

Northeast District Office
2110 East Aurora Road
Twinsburg, OH 44087-1924

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COMMENT

Regarding Item 1

Evaluation of Owner or Operator's Response to Previously Cited Violations

The Respondent was correctly cited in violation of OAC Rule 3745-400-11(B)(1), which requires the Respondent to conduct all operations at the facility in strict compliance with the license, any orders, and other authorizing documents issued in accordance with Chapter 3714 of the Revised Code. The Respondent has still not demonstrated that the leachate management system was operated (i.e. pumped) on a consistent basis during working hours of the landfill in accordance with Section 11(a) of the *2011 Final Revised License Application Approval Terms and Conditions* during December 2011. Instead, the Respondent has argued that monthly leachate management reports (and tables) only document whether or not leachate was hauled any given day and should not be interpreted to mean or imply that the leachate management system was not pumped on the same days that leachate was not hauled. However, by failing to measure and document the actual quantity of leachate pumped in the monthly leachate management reports, Ohio EPA has determined that the Respondent was also in violation of *Orders 10 and 11 of the Unilateral Director's Final Findings and Orders (DFFOs)* dated April 11, 2008, during December 2011. Because the Respondent was in violation of the *DFFOs,* the Respondent was also in violation of OAC Rule 3745-400-11(B)(1) for failing to maintain strict compliance with "any orders."

The Respondent correctly points out that the summary table contained in the December 2011 monthly report does not clarify the difference between the leachate actually pumped from the system any given day versus the leachate that is, or is not, hauled away any given day. The Respondent claims that the table only shows the quantity of leachate that was hauled away any given day and that it should not be inferred that just because leachate was not hauled away any given day, that the leachate wells/sumps were not pumped that day. Ohio EPA does not disagree. However, this means that the Respondent is in violation of *Orders 10 and 11 of the Unilateral Director's Final Findings and Orders (DFFOs),* dated April 11, 2008, which expressly requires records of the quantity of leachate being pumped and monthly documentation of the results. The Respondent is only recording and reporting the quantity of leachate hauled, not the quantity of leachate pumped.

Going forward, the Respondent must immediately begin recording the actual quantity of leachate being pumped on a daily basis during working hours of the facility and reporting this information in the monthly leachate management reports as required by *Orders 10 and 11 of the DFFOs.*

If you have any technical questions regarding this review, please contact Mark Kroenke at (330) 963-1225. Please submit all correspondence to Dave Dysle, Ohio EPA, Division of Materials and Waste Management, Northeast District Office, 2110 East Aurora Road, Twinsburg, Ohio 44087.

Sincerely,

Dave Dysle

Dave Dysle
Environmental Specialist
Division of Materials and Waste Management

DD/cl

cc: Kelly Jeter, DMWM, CO
Mark Kroenke, DDAGW, NEDO
Allison Giancola, DMWM, NEDO
Robin Nichols, DMWM-Legal
Robert Moormann, AGO
Julie Brown, Summit County Public Health
Michael Cyphert, Walter & Haverfield LLP
File: [Sowers/CONS/Summit C&D Disposal/COR/77]
DMWM # 3746