



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

October 19, 2012

RE: **ROSBY RESOURCE RECYCLING CLASS II  
COMPOST FACILITY  
CUYAHOGA COUNTY  
NOTICE OF VIOLATION**

**CERTIFIED MAIL 7012 1010 0002 2260 3988**

Mr. William Rosby  
Rosby Resource Recovery  
54 East Schaaf Road  
Brooklyn Heights, Ohio 44131

Dear Mr. Rosby:

On September 19, 2012, I conducted a compliance inspection of the Class II Compost Facility located at 54 East Schaaf Road, Brooklyn Heights, Cuyahoga County. I was accompanied on my inspection by Dan Bogoevski and Erm Gomes of our Division of Surface Water, and Judy Bowman and Jennifer Carlin of our Division of Materials and Waste Management. You and Chuck Perito, Operations Manager, accompanied us during our inspection. Our records indicate that Rosby Resource Recovery compost facility is a licensed and registered Class II compost facility. A letter of Acknowledgment of Registration as a Class II Composting Facility was sent to you on January 7, 2009.

During the inspection, it was noted that equipment was in place to pump the leachate, which is currently contained in the large bladders located just west of the compost windrows, to the crop field located to the south of the compost windrows. According to the facility site map submitted with the registration application, the area to which leachate was being pumped was beyond the facility boundary. You indicated that the land application of leachate to the field had been in operation for the past several weeks. However, at the time of the inspection, the leachate was not actively being pumped to the field. At the time of the inspection, you were instructed to terminate all land application of the leachate.

The owner/operator is in violation of the following solid waste rules:

1. **Ohio Administrative Code (OAC)3745-560-210(N)**: *“Leachate management. The owner or operator shall do the following: ... (2) Eliminate ponding of leachate and the conditions that contribute to the discharge of leachate from the composting facility. (3) Collect and contain leachate within the boundary of the composting facility and prevent leachate from discharging to waters of the state. Leachate may be collected and contained for reintroduction into the composting process.”*

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The owner/operator did not collect and contain the leachate within the boundary of the composting facility and did not eliminate the conditions that contribute to the discharge of leachate from the composting facility.

It was noted that a system, consisting of a pump and several hoses, was put in place specifically in order to discharge the leachate from the composting facility.

2. **Ohio Administrative Code (OAC)3745-560-210(A)**: *“Authorizing documents. The owner or operator shall operate the facility in accordance with applicable authorizing documents.”*

The owner or operator did not operate the facility in accordance with the applicable authorizing documents, specifically, the Registration and the 2012 Facility License.

The compost leachate collected as part of the facility’s operation is classified as an “Industrial Waste” as that term is defined by ORC Section 6111.01(C) and ORC Section 6111.45. “Industrial waste” is defined as **“any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any natural resource, together with such sewage as is present.”**

The system being utilized to store, treat/process, and land apply the leachate meet the definition of a treatment and/or disposal system. No approval has been issued by the Director for the activity. Therefore, the owner/operator is in violation of the following surface water rules:

3. **Ohio Revised Code (ORC) 6111.45**: *“No municipal corporation, county, public institution, corporation, or officer or employee thereof or other person shall establish as proprietor, agent, employee, lessee, or tenant, any garbage disposal plant, shop, factory, mill, industrial establishment, process, trade, or business in the operation of which an industrial waste is produced, or make a change in or enlargement of a garbage disposal plant, shop, factory, mill, industrial establishment, process, trade, or business whereby an industrial waste is produced or materially increased or changed in character, or install works for the treatment or disposal of any such waste until the plans for the disposal of the waste have been submitted to and approved by the director of environmental protection...”*

4. **OAC 3745-42 (A)(1)(a)**: *“ ... no person shall cause, permit or allow the installation of a new disposal system or cause, permit or allow the modification of a disposal system without first obtaining an individual permit to install, a general permit to install or plan approval in accordance with this chapter and all other applicable rules and laws.”* The system being utilized to store, treat/process, and land apply the leachate meet the definition of a treatment and/or disposal system.

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5. **OAC 3745-42 (A)(1)(c)**: *"The approval of a permit to install shall constitute approval of the detailed plans for the disposal of waste and for the disposal system pursuant to sections 6111.44 and 6111.45 of the Revised Code."* No approval has been issued by the Director for the activity.

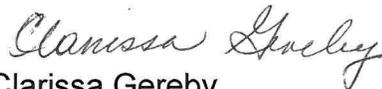
Additionally, please note that the owner/operator could potentially be in violation of ORC 6111.04 if there was run off from the application area. ORC 6111.04 states that **"No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state."**

It appears that the berms surrounding the material handling area were constructed of compost. The berm contained a significant amount of undegraded compostable bags. If the material used in the construction of the berm is finished product that has been tested and meets standards, the undegraded bag remnants need to be removed. If the material in the berm is unfinished compost material, it cannot be used as a berm and needs to be removed and replaced with soil or other material that is not solid waste.

Please respond to this NOV within 14 days of the receipt of this correspondence and identify how the violations will be redressed. In addition, please identify what type of material the berms are constructed from and any actions that need to be taken to ensure that solid waste is not a part of the construction of the berms.

Nothing in this letter shall be construed to authorize any waiver from any requirements of applicable state solid waste laws or regulations. This authorization shall not be interpreted to release the owner/operator or others from responsibility under ORC Chapters 3704, 3714, 3734, or 6111, the Federal Clean Water Act, the Resource Conservation and Recovery Act, the Toxic Substances and Control Act or the Comprehensive Environmental Response, Compensation and Liability Act, or from other applicable requirements for remedying conditions resulting from any release of contaminants from the facility to the environment.

Sincerely,

  
Clarissa Gereby  
Environmental Specialist  
Division of Materials and Waste Management

  
Ermelindo Gomes  
Environmental Engineer  
Division of Surface Water

CG/EG/cl

cc: Dane Tussel, CCBH  
Rich Blasick, DSW, NEDO

Dean Stoll, DSW, NEDO  
File: [Sowers/Comp/Rosby Class II/18]