



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

DECEMBER 21, 2012

**JEFFERSON COUNTY
FAC –APEX LANDFILL**

Mr. Dave Matthews
Regional Site Manager
Apex Sanitary Landfill
P.O. Box 157
Amsterdam, Ohio 43903

RE: Notice of Violation – Failure to Pay Late Fees & Failure to Submit Monthly Reports

Dear Mr. Matthews,

Ohio Revised Code (ORC) Section 3734.57(A) states, in pertinent part:

“The owner or operator of a solid waste transfer facility or disposal facility, as applicable, shall prepare and file with the director of environmental protection each month a return indicating the total tonnage of solid wastes received at the facility during that month and the total amount of the fees required to be collected under this division during that month. In addition, the owner or operator of a solid waste disposal facility shall indicate on the return the total tonnage of solid wastes received from transfer facilities located in this state during that month for which the fees were required to be collected by the transfer facilities. The monthly returns shall be filed on a form prescribed by the director. Not later than thirty days after the last day of the month to which a return applies, the owner or operator shall mail to the director the return for that month together with the fees required to be collected under this division during that month as indicated on the return or may submit the return and fees electronically in a manner approved by the director. If the return is filed and the amount of the fees due is paid in a timely manner as required in this division, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of the fees that are required to be paid as indicated on the return.

The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. **If the fees are not remitted within thirty days after the last day of the month to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional ten per cent of the amount of the fees for each month that they are late.** For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely

submitting the return and fees, and one additional month shall be counted every thirty days thereafter.”

1. Apex Sanitary Landfill

The following disposal fees and corresponding late fees are due and owing for the following months of 2012:

	Disposal Fee	Late Fee	Total
April	\$3,607.35	\$50,262.48	\$53,869.83
May	\$4,269.51	\$59,061.53	\$63,331.04
August	\$550,679.24	\$165,203.77	\$715,883.01
September	\$457,200.42	\$91,440.08	\$548,640.50
October	\$535,932.15	\$53,593.22	\$589,525.37
		Total:	\$1,971,249.80

As of December 12, 2012

2. Apex Transfer Facility

The following disposal fees and corresponding late fees are due and owing for the following months of 2012:

	Disposal Fee	Late Fee	Total
April	n/a	-\$1,476.30*	n/a
		*Overpayment due to system error	
August	\$16,973.56 -\$1,476.30* \$15,497.26	\$4,649.18	\$20,146.44
	*Overpayment applied		
September	\$14,370.18	\$2,874.04	\$17,244.22
October	\$16,160.37	\$1,616.04	\$17,776.41
		Total:	\$55,167.07

As of December 12, 2012

Apex is and continues to be in violation of ORC Section 3734.57(A) for failing to remit disposal fees and late fees for the months identified above for the Apex Landfill and the Apex Transfer Station. Apex is requested to make its check for \$2,026,416.90 payable to "Treasurer, State of Ohio" and to immediately submit its payment to the following address:

Treasurer, State of Ohio
Ohio EPA-OFA, Department L-2711
Columbus, Ohio, 43260-2711

In addition, the Division of Material and Waste Management will provide Apex a follow up *Disposal Fee Invoice* letter that describes in detail the breakdown of the calculations regarding disposal fees and late fees owed.

3. Return/Disposal Forms

Apex submitted monthly return forms (known as disposal forms) late for the Apex Landfill. The April form was submitted on June 29, 2012, one month late; the May form was submitted on July 26, 2012, one month late; August and September forms were submitted on November 30, 2012, one and two months late respectively.

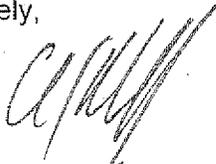
Apex submitted monthly disposal forms late for the Apex Transfer Station. August and September forms were submitted on November 30, 2012, one and two months late respectively.

Apex regained compliance with ORC Section 3734.57(A) regarding only violations for failing to submit disposal forms on the dates identified above.

Within 14 days of receipt of this letter, Apex is requested to provide documentation to this office confirming the steps taken to abate the violations for failing to remit disposal fees and corresponding late fees stated above. Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapter 3734. of the Ohio Revised Code and rules promulgated thereunder may result in a civil penalty of up to \$10,000 per day for each violation. It is imperative that you return to compliance. If circumstances delay the abatement of violations, Apex is requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

Please contact me if you have any questions.

Sincerely,



Carl Mussenden, R.S., M.B.A.
Lead Compliance & Enforcement Specialist
Division of Materials and Waste Management
Ohio Environmental Protection Agency

cc: Steve Rine, DMWM Manager-SEDO
Dale Warner, DMWM-SEDO
Jeff Hurdley, Legal Supervisor-CO
Bruce McCoy, DMWM Manager
Anthony Rizzo, Chief Operating Officer, Apex Environmental LLC

Joe Goicochea, DMWM Supervisor
Brian Dearth, DMWM Supervisor
Jefferson County Health Department
Kelly Jeter, DMWM Supervisor