



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

April 29, 2013

**RE: ROSBY RESOURCE RECYCLING, INC.  
CONSTRUCTION AND DEMOLITION  
DEBRIS FACILITY  
CLASS II COMPOST FACILITY  
CUYAHOGA COUNTY  
NOTICE OF CONTINUED VIOLATION**

Mr. William Rosby  
Rosby Resource Recycling, Inc.  
54 East Schaaf Rd.  
Brooklyn Hts., Ohio 44131

Dear Mr. Rosby:

On April 17, 2013, Jennifer Carlin and I conducted a partial compliance inspection of the Construction and Demolition Debris facility and the Class II Compost Facility located at 54 East Schaaf Road, Brooklyn Heights, Cuyahoga County. Dane Tussel of the Cuyahoga County Board of Health and Bryan Sokolowski, Valerie Shaffer and Sarah Buzas of the Cleveland Division of Air Quality were present during the inspection. Chuck Perito, Operations Manager, accompanied us during our inspection.

During the inspection of the class II compost facility, it was noted that there was a great amount of leachate still ponded within the compost facility (see photo #1, photo #2, and photo #3). The compost was sitting in the leachate, which covered nearly the entire site. Chuck Perito informed us that the Northeast Ohio Regional Sewer District (NEORS) granted another temporary discharge permit to the sanitary line (which is located northeast of the compost facility) and that additional leachate will be discharged within the next several days. According to Chuck, since our last visit at the site, 200,000 gallons of leachate were discharged to the sewer. The storage tank and four (4) of the five (5) bladders containing leachate were emptied.

Mr. William Rosby  
Rosby Resource Recycling, Inc.  
April 29, 2013  
Page 2

Photo #1. Leachate accumulation at the northeast corner of the compost facility.



Photo #2. Leachate accumulation at the southwest portion of the compost facility.



Mr. William Rosby  
Rosby Resource Recycling, Inc.  
April 29, 2013  
Page 3

Photo #3. Leachate accumulation at the northwest corner of the compost facility.



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

**Ohio Administrative Code (OAC) 3745-560-210 (N):** *“Leachate management. The owner or operator shall do the following:*

- (1) Take action to minimize the production of leachate.*
- (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.”*

The presence of significant amounts of leachate has been observed at the compost facility during previous inspections and the violation has been cited in two other NOV's dated October 19, 2012, and March 20, 2013. In Rosby's response to the leachate violations contained in the October 19, 2012 NOV, it is stated: "In the meantime, any leachate from the compost facility will be collected and disposed at an appropriate POTW." In Rosby's response to the March 20, 2013 NOV, it is stated that: "Any remaining leachate within the compost facility will be discharged to the Northeast Ohio Regional Sewer District's sanitary line pursuant to the temporary permit." It is clear that

Mr. William Rosby  
Rosby Resource Recycling, Inc.  
April 29, 2013  
Page 4

the facility owner/operator has not taken appropriate action to abate the ongoing violations.

During the inspection, solid waste (such as milk cartons, a mylar ballon, plastic drink bottles, green plastic planting pot) was observed in the compost piles (see photo # 4 and photo #5).

Photo #4. Milk cartons and other solid waste floating in leachate at compost facility.



Mr. William Rosby  
Rosby Resource Recycling, Inc.  
April 29, 2013  
Page 5

Photo #5. Prohibited materials in compost.



Therefore, the owner/operator is in violation of the following solid waste rule:

**Ohio Administrative Code (OAC)3745-560-210(C)**: *“Prohibited material management. The owner or operator shall not accept any prohibited material at the facility.*

*(1) Prohibited material includes but is not limited to the following:*

*(a) Any solid waste, feedstock, bulking agent, or additive other than those feedstocks, bulking agents, or additives authorized by paragraph (B) of this rule.*

*(2) If prohibited material is detected, the owner or operator shall immediately do the following:*

- (a) Remove the prohibited material from the materials placement area.*
- (b) Manage the prohibited material in accordance with applicable laws and regulations.*
- (c) Record incidents in the log of operations.”*

Mr. William Rosby  
Rosby Resource Recycling, Inc.  
April 29, 2013  
Page 6

During the inspection, it was noted that unfinished compost continues to be stored outside of the Class II compost facility boundaries. The unfinished compost is being used on berms (photo #4), stored in a large pile located east of the "finished" pile that is under roof (photo #5), and placed on the C&DD facility as vegetative cover (photo #6). There also appears to be a large pile of what appears to be unfinished compost located east of the compost facility near the homes located on Schaaf Road (photo #7).

Photo #4. Unfinished compost placed on berms surrounding compost facility.



Mr. William Rosby  
Rosby Resource Recycling, Inc.  
April 29, 2013  
Page 7

Photo #5. Unfinished compost located north of the finished pile under roof.



Mr. William Rosby  
Rosby Resource Recycling, Inc.  
April 29, 2013  
Page 8

Photo #6. Unfinished compost placed on C&DD facility as vegetative cover.



As per the NOVs issued to Rosby Resource Recovery, Inc. on February 26, 2013 and March 20, 2013, when undegraded plastics remain in the product, the compost should be screened or otherwise processed to remove solid wastes. Any processing of the compost material that contains the plastics must be conducted within the boundaries of the composting facility. Placement of solid waste contained in compost onto the ground outside the composting facility boundary constitutes open dumping.

The large pile of compost that was located on the adjacent property (270 Schaaf Rd.) has been screened and the solid waste has been removed from the compost. However, a large amount of solid waste from the screening activity remains on the property (see photo #7 and photo #8) and must be removed and properly disposed. The liquid that has accumulated on the property is considered leachate and should be disposed of properly as well.

Mr. William Rosby  
Rosby Resource Recycling, Inc.  
April 29, 2013  
Page 9

Photo #7. Solid waste on adjacent property.



Photo # 8. Solid waste on neighboring property.



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

**Ohio Revised Code (ORC) 3734.03:** *"No person shall dispose of solid wastes by open burning or open dumping, except as authorized by the director of environmental protection..."*

The owner or operator of this facility violated this rule by disposing of solid waste by open dumping. The unfinished compost, which contained undegraded plastics, are considered solid waste and therefore, the activity conducted at the facility is considered open dumping.

**Ohio Administrative Code (OAC) 3745-27-05(C):** *"No person shall conduct, permit, or allow open dumping."*

The owner or operator of this facility violated this rule by disposing of solid waste by open dumping. The unfinished compost, which contained undegraded plastics, are considered solid waste and therefore, the activity conducted at the facility is considered open dumping.

Mr. William Rosby  
Rosby Resource Recycling, Inc.  
April 29, 2013  
Page 11

The presence of unfinished compost being stored outside of the Class II compost facility has been observed at the compost facility during previous inspections and the violations cited above have been cited in an NOV dated March 20, 2013. In Rosby's response to the violations contained in the March 20, 2013 NOV, it is stated: "All unfinished compost will be place within the boundaries of the compost facility where it will be screened to final size." It is clear that the facility owner/operator has not taken appropriate action to abate the ongoing violations.

During the inspection of the C&DD facility on April 17, 2013, Ohio EPA noted the following violations:

- **Ohio Administrative Code (OAC) Rule 3745-400-11(B)(1):** *"The owner or operator shall 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 owner or operator of this facility violated this rule for failing to operate in strict compliance with the approved license. Rosby's C&DD license allows for 4:1 maximum slopes. Ohio EPA determined that Rosby has exceeded this limit.

Rosby's C&DD license also identifies the Facility's active licensed disposal area (ALDA), and specifies that construction and demolition debris (C&DD) may be disposed only in that area. Ohio EPA determined that Rosby disposed of C&DD outside of the ALDA along the northwestern area of the facility (near the railroad tracks).

To comply with this rule, all side slopes must be corrected such that the 4:1 maximum slope is not exceeded. In addition, all C&DD disposed outside of the ALDA must be relocated within the ALDA and fees must be paid accordingly.

- **Ohio Administrative Code (OAC) Rule 3745-400-11(B)(2):** *"The owner or operator shall dispose of construction and demolition debris only within the active licensed disposal area."*

The owner or operator of this facility violated this rule for disposing C&DD outside of its ALDA. It has been determined that Rosby disposed of C&DD outside of the ALDA along the northwest area of the facility (near railroad tracks).

To comply with this rule, all C&DD must be relocated within the ALDA and fees must be paid accordingly.

- **Ohio Administrative Code (OAC) Rule 3745-400-11(H)**: *“states that the owner must be “[c]overing all disposed combustible debris on a weekly basis with soil, clean hard fill, or other material which is noncombustible. For the purpose of this rule, covering means to apply noncombustible material in a manner such that combustible debris is not visible.”*

The owner or operator of this facility violated this rule for not using soil or clean hard fill as weekly cover. Although soil is now being used as weekly cover over the working face, several areas around the landfill where “fines” were previously used for cover have not been recovered with soil.

To comply with this rule, the “fines” which were used for weekly cover are considered C&DD and need to be covered using clean soil or clean hard fill.

- **Ohio Administrative Code (OAC) Rule 3745-400-11(B)(16)**: *“The owner or operator shall not cause water pollution.”*

The owner or operator of this facility violated this rule for being a source of water pollution. As documented in the previous notices of violations (NOVs), Rosby used C&DD “fines” to cover areas of the landfill, which resulted in the generation of leachate at the facility. Leachate is currently being discharged unabated to storm water and allowing C&DD contaminants to leave the site without treatment or an adequate NPDES permit for the site.

To comply with this rule, the owner or operator must adequately collect and contain leachate and comply with all NPDES permit and treatment requirements.

- **Ohio Administrative Code (OAC) Rule 3745-400-11(D)(5)**: *states “[t]he owner or operator has applied for and received all applicable permits and authorizations required by Chapters 3704. and 6111. of the Revised Code.”*

The owner or operator of this facility violated this rule for failing to apply for and receive all applicable surface water permits.

To comply with this rule, the owner or operator must obtain all the necessary air and surface water permits.

- **Ohio Administrative Code (OAC) Rule 3745-400-11(O)**: *“Leachate outbreaks. If there is an outbreak of leachate at the surface, the owner or operator shall do all of the following:*

(1) *Contain the leachate.*

(2) *Manage and dispose the leachate in accordance with applicable regulations.*

Mr. William Rosby  
Rosby Resource Recycling, Inc.  
April 29, 2013  
Page 13

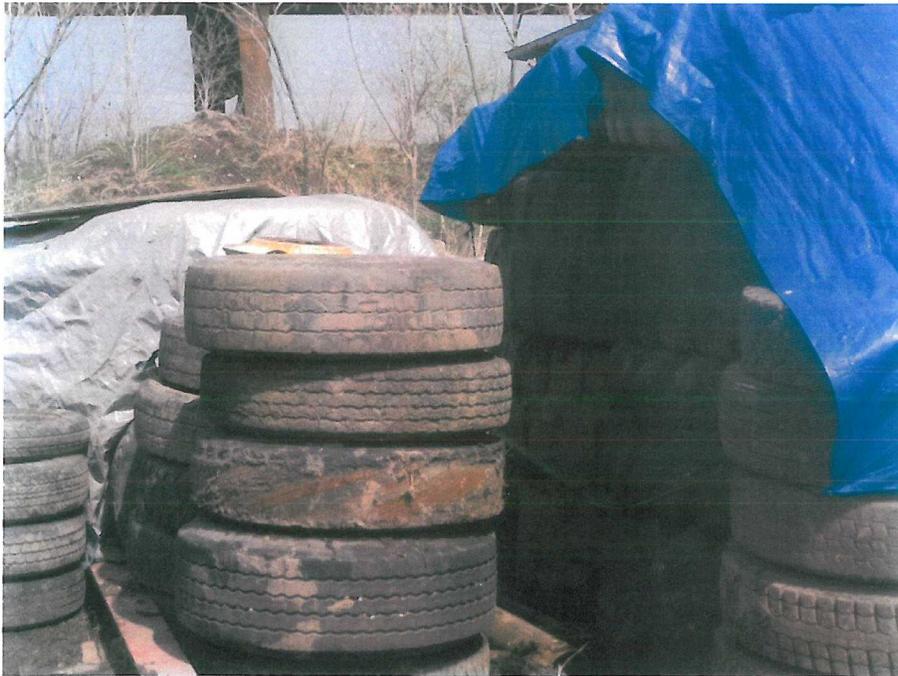
*(3) Repair the outbreak.”*

The owner or operator of this facility violated this rule for failing to contain leachate generated after coming in contact with C&DD and C&DD “fines.”

To comply with this rule, the owner or operator must contain, manage and dispose of all leachate in accordance with applicable regulations.

**Tire storage:** During the inspection it was observed that most of the tires being stored in the northeast portion of the Rosby Resource Recovery, Inc. property have been covered with tarps. It was noted that several of the tires still remain uncovered and containing water (see photo #9) Please follow proper practices for storage of scrap tires and mosquito control. Ohio Administrative Code Rule 3745-27-60 **General storage and handling of scrap tires** can be viewed at: [http://epa.ohio.gov/portals/34/document/currentrule/3745-27-60\\_current.pdf](http://epa.ohio.gov/portals/34/document/currentrule/3745-27-60_current.pdf).

Photo #9. Scrap tires located on the Rosby Resource Recovery, Inc. property.



1. **Odors:** During the inspection, strong and unpleasant compost odors were detected. The smell matched the descriptors (i.e. “fecal odor,” “manure and dead animal smell”) used by residents when complaining of off-site odors. Winds were from the east-northeast at 17 – 19 mph at the time. We did not detect off-site odors before or after the inspection.

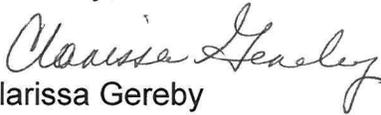
Mr. William Rosby  
Rosby Resource Recycling, Inc.  
April 29, 2013  
Page 14

Rosby Resource Recycling, Inc. must immediately undertake corrective action with respect to the above noted violations. 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.

Your written response to this letter must be received by Ohio EPA within 14 days of receipt of this letter. If there is insufficient time to correct the alleged violations within this timeframe, your response must include a timeline for correcting the violations.

If you have any questions regarding this correspondence, please contact Clarissa Gereby at (330) 963-1224.

Sincerely,

  
Clarissa Gereby  
Environmental Specialist  
Division of Materials and  
Waste Management

  
Jennifer Carlin  
Environmental Specialist  
Division of Materials and  
Waste Management

CG/JC/cl

cc: Dane Tussel, Cuyahoga County Health Department  
Colin Johnson, Cuyahoga County Health Department  
Bryan Sokolowski, CDAQ  
Mayor Mike Procuik, City of Brooklyn Heights  
File: [Sowers/COMP/Rosby Class II/COR/18]

ec: Judy Bowman, DMWM, NEDO  
Erm Gomes, DSW, NEDO  
Dan Bogoevski, DSW, NEDO