



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

July 30, 2013

RE: NOTICE OF VIOLATIONS

CERTIFIED MAIL 7012 3460 0002 1239 4433

Stephen R. Bennett
Summit Road Properties
2795 Barber Road
Norton, Ohio 44203

Dear Mr. Bennett:

This letter provides a notice of violations identified by Ohio Environmental Protection Agency (Ohio EPA) during an inspection at Summit & McCoy C&DD Landfill on April 9, 2013. The construction and demolition debris (CDD) landfill facility is located at 3897 Summit Road, Norton, Summit County. Attending the inspection were you, representing the facility, Julie Brown, representing Summit County Public Health (SCPH), and Allison Giancola and Dave Dysle, representing Ohio EPA.

During the inspection, Ohio EPA observed a very large pile of material near the east side of Phase 2. The pile was approximately 40 feet high and 600 feet long. The attached photos were taken during the inspection. You stated that the material was being used to construct the CDD landfill berm. The material being used to construct the berm consists of CDD, including pieces of telephone poles, ceramic electrical insulators, carpet, poles, pieces of wood, concrete, bricks, fencing, and scrap metal; solid waste, including fabrics and tree debris/plant material; and fine grained unidentifiable material.

The CDD is outside the active licensed disposal area (ALDA) and is therefore considered illegal disposal of CDD. The placement of solid waste on the ground is open dumping of solid waste.

VIOLATIONS

You are in violation of the following rules:

1. **Ohio Administrative Code (OAC) Rule 3745-27-05(C)** Open dumping of solid waste.

The rule states, *“No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code, and shall submit verification that the solid waste has been properly managed.”*

The material used in the construction of the berm contains solid waste. The visible solid waste includes fabrics, and tree debris/plant material. All solid waste must be removed and disposed at a licensed solid waste disposal facility. Please send copies of the waste disposal receipts to Summit County Public Health and Ohio EPA.

2. **OAC 3745-400-11(B)(2)** CDD placement in ALDA only.

This rule states, *“The owner or operator shall dispose of construction and demolition debris only within the active licensed disposal area.”*

OAC 3745-400-04(B) Authorized, limited, and prohibited CDD disposal.

This rule states, *“No person shall conduct or allow illegal disposal of construction and demolition debris, as defined in rule 3745-400-01 of the Administrative Code.”*

The material being placed outside of the active licensed disposal area (ALDA) contains CDD, including pipes, poles, carpet and scrap metal. This is illegal disposal of CDD. Ohio EPA understands that the berm was meant to be made of clean hard fill.

OAC Rule 3745-400-05 states,

“Clean hard fill consisting of reinforced or nonreinforced concrete, asphalt concrete, brick, block, tile, or stone shall be managed in one or more of the following ways:

- (1) *Recycled into a usable construction material*
- (2) *Disposed in a licensed construction and demolition debris or other waste facilities.*

- (3) *Used in legitimate fill operations for construction purposes or to bring the site up to a consistent grade, on the site of generation.*
- (4) *Used in legitimate fill operations for construction purposes or to bring the site up to a consistent grade, on a site other than the site of generation, pursuant to paragraphs (C) of this rule."*

The material is not clean hard fill as it does not consist of only *reinforced or nonreinforced concrete, asphalt concrete, brick, block, tile, or stone*. All CDD must be removed and properly disposed of at a licensed CDD disposal facility. If the hard fill can be separated from the prohibited materials, and the hard fill is clean, then the clean hard fill can be managed in accordance with this rule.

Please send copies of the CDD disposal receipts to Summit County Public Health and Ohio EPA.

3. **OAC Rule 3745-400-11(F)** Waste acceptance and disposal.

This rule states, "Prior to acceptance by the facility, debris shall be readily identifiable as construction and demolition debris and shall not have been shredded, pulverized, or otherwise rendered to the extent that the debris is unidentifiable. The owner or operator shall dispose of only construction and demolition debris as defined in rule 3745-400-01 of the Administrative Code, except as specified in this rule."

The berm contains a large amount of material that is fine grained and is not readily identifiable. The material could be contaminated soil, pulverized CDD, industrial solid waste or a combination of the aforementioned materials. Please see the attached photos. The unidentifiable material must be properly characterized and disposed. Please send copies of the disposal receipts to Summit County Public Health and Ohio EPA.

4. **OAC Rule 3745-400-05(C)** Notice of intent to fill.

"The person responsible for causing clean hard fill to be used in legitimate fill operations for construction purposes or to bring the site up to a consistent grade, on a site other than the site of generation, shall provide a written "Notice of Intent to Fill" to each licensing authority where the clean hard fill is to be placed. The Notice of Intent to Fill shall state the nature of the fill material, the site(s) to be filled, when filling will begin and end, and the telephone number of the notifier.

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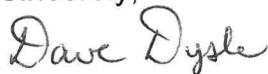
The notification shall be received by each local licensing authority with sites to be filled, at least seven days prior to filling as required by division (F) of section 3714.13 of the Revised Code. The notifier shall provide a new Notice of Intent to Fill if there are any changes in the information required by this rule for notification."

During the inspection, you stated that the berm being constructed at the facility was intended to be constructed with clean hard fill. If clean hard fill is used in legitimate fill operations at a site other than the site of generation, a Notice of Intent to Fill must be submitted. Ohio EPA is not aware of any notice of intent to fill being sent to Summit County Public Health seven days prior to beginning placement of the berm, pursuant to the above rule. A Notice of Intent (NOI) to fill must be submitted to Summit County Public Health.

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release Summit Road Properties and Summit & McCoy C&DD Landfill from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water or Comprehensive Environmental Response, Compensation, and Liability Acts for remedying conditions resulting from any release of contaminants to the environment.

Please respond within 14 days of receiving this letter. Should you have any questions, please call me at (330) 963-1286.

Sincerely,



Dave Dysle
Environmental Specialist
Division of Materials and Waste Management

DD/cl

Attachments: photos from April 9, 2013 inspection

ec: Allison Giancola, DMWM, NEDO
Carl Mussenden, DMWM, CO

cc: Julie Brown, Summit County Public Health
File: [Sowers/CONS/Summit & McCoy/COR/77]

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