



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

August 12, 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 Schaff Rd.
Brooklyn Hts., Ohio 44131

Dear Mr. Rosby:

On August 2, 2013, Jennifer Carlin and Clarissa Gereby conducted a partial compliance inspection of the Construction and Demolition Debris facility and the Class II Compost Facility located at 54 East Schaff Road, Brooklyn Heights, Cuyahoga County. During the August 2 inspection, Dane Tussel, representing the Cuyahoga County Board of Health, and Megan Murphy, representing the Cleveland Division of Air Quality, were present during the inspection. No one from the facility was present during the inspection. On August 7, Jennifer Carlin, Judy Bowman, Lynn Sowers, Scott Hester and Jeremy Carroll, representing the Ohio EPA, conducted a partial compliance inspection of the Construction and Demolition Debris facility and the Class II Compost Facility. Also present during the inspection was Dane Tussel, representing the Cuyahoga County Board of Health, and William Rosby and Chuck Perito, representing Rosby Resource Recycling, Inc.

During both inspections of the class II compost facility, it was noted that there was leachate still ponded within the compost facility (see photo #1, photo #2, and photo #3).

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Photo #1. Leachate accumulation at the compost facility



Photo #2. Leachate accumulation at the compost facility



Photo #3. Leachate accumulation at 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.*

The presence of leachate has been observed at the compost facility during previous inspections and the violation has been cited in three other NOVs dated October 19, 2012, March 20, 2013, and April 29, 2013.

During both inspections, it was noted that several violations cited in the April 29, 2013 NOV have been appropriately addressed. The solid waste that was observed in the compost piles has been removed and the unfinished compost which was stored outside of the Class II compost facility boundaries has been removed and placed into the composting facility boundary.

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During the inspections of the C&DD facility on August 2 and August 7, 2013, Ohio EPA has 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 (see Photo #4). 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.

Photo #4 C&DD fines along the railroad tracks.



- **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 (see Photo #5).

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.

Photo #5. "Fines" piles on top of the landfill.



- **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, 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.*
 - (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.

- **Ohio Administrative Code (OAC) Rule 3745-400-11(H)(1)**: *“Covering 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 failing to cover C&DD in an in-active area with sufficient noncombustible material in a manner such that combustible material is not visible (see Photo #6).

To comply with this rule, C&DD disposed in an in-active area of the working face must be covered with sufficient noncombustible material in a manner such that combustible material is not visible.

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Photo #6. Insufficient weekly cover.



Odors: During the inspections of the compost facility, 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 offsite odors. Hydrogen sulfide ("rotten egg") odor was detected at the northwest corner of the compost area and on top of the C&DD landfill. Winds were from the west-southwest at 7 - 9 mph at the time. We did not detect offsite odors before or after the inspections.

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

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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

cc: Dane Tussel, Cuyahoga County Health Department
Colin Johnson, Cuyahoga County Health Department
Judy Bowman, DMWM
Erm Gomes, DSW, NEDO
Dan Bogoevski, DSW, NEDO
Bryan Sokolowski, CDAQ
Mayor Mike Procuk, City of Brooklyn Heights
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