



State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.
Twinsburg, Ohio 44087

TELE: (330) 963-1200 FAX: (330) 487-0769
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korieski, Director

November 25, 2008

CERTIFIED MAIL
7008 0150 0001 7111 1425

Ms. Teresa C. Jordan
Site Coordinator
Painesville PRP Group
10265 Woodbury Road
Laingsburg, MI 48848

Re: Notice of Violation at Operable Unit 10 of the Diamond Shamrock Painesville Works Site, Cuyahoga County, Ohio EPA

Dear Ms. Jordan:

On October 1, 2008, Ms. Karen Nesbit, Ohio EPA, Division of Hazardous Waste Management, and I visited Operable Unit 10 to evaluate compliance with RCRA laws and regulations. During this inspection, we spoke with Mr. Paul Dugas, the former Painesville PRP Group and Tierra Solutions, Inc. site coordinator for the Diamond Shamrock Painesville Works Site. During this conversation, Mr. Dugas stated that extraction wells at the One Acre Landfill portion of the Site were not pumped from 2003 through 2006. When asked why the wells were not pumped, Mr. Dugas first replied that the landfill surface was under construction and then later stated that he "just didn't pump." Further investigation by Ohio EPA determined that, between March 2001 and December 2007, the One Acre Site extraction wells were only pumped on one occasion.

The requirement to pump ground water to maintain a positive gradient is set forth in Section 1, A of the Interim Operation and Maintenance Plan (Interim O&M Plan), which was conditionally approved by Ohio EPA on October 15, 1999. The requirement was imposed to prevent leachate or contaminated groundwater from leaving OU10 and, therefore, allowing contamination to spread to Lake Erie and/or other operable units of the Diamond Shamrock Painesville Works Site. On October 8, 2008, Painesville PRP Group and Tierra Solutions, Inc. representatives notified me during a Diamond Shamrock monthly site meeting that pumping has resumed in accordance with the Interim O&M Plan. Therefore, from March 2001 to October 2008, the Painesville PRP Group failed to comply with Section 1, A, Page 1 of 4, of Ohio EPA's approved Interim O&M Plan. In addition, the Painesville PRP Group has also failed to fulfill routine reporting and inspection requirements as set forth in Section 8, A, B, D and E. Ohio EPA is evaluating the environmental impact of this failure and the appropriate response to the violation noted herein.

MS. TERESA C. JORDAN, SITE COORDINATOR
PAINESVILLE PRP GROUP
NOVEMBER 25, 2008
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Continued operation of Ohio EPA's approved Interim O&M Plan is an interim action necessary to meet the objectives of the September 27, 1995 Director's Final Findings and Orders (1995 Orders), including the objective to protect public health, safety, welfare, and the environment from the disposal, discharge, or release of, hazardous substances at the Diamond Shamrock Painesville Works Site. Any activities required by the 1995 Orders are required to continue as per the subsequent October 4, 2005 Consent Order entered in the United States District Court for the Northern District of Ohio, Eastern Division, in Case No. 1:02CV0193. The Interim O&M Plan is required to be complied with until such time as a final operation and maintenance plan is approved by Ohio EPA, or until such time as a demonstration is made that the Interim O&M Plan is no longer necessary and Ohio EPA agrees with the demonstration in writing. Any future failure to comply with the Interim O&M Plan is subject to the terms of the 1995 Orders and the 2005 Consent Order and subject to the full range of remedies available to Ohio EPA.

If you have any questions, please call Teri Heer at (330) 963-1168.

Sincerely,



Teri Heer
Site Coordinator
Division of Emergency and Remedial Response

TH/kss

cc: Ann Fischbein, Ohio EPA, Legal, CO
Heidi Sorin, Ohio EPA, DERR, CO
Mark Rickrich, Ohio EPA, DERR, CO
David Rabbe, TSI
Sara Galley, Maxus Energy
Nathan Scott, TSI

ec: Rod Beals, Ohio EPA, DERR, NEDO
Steve Love, Ohio EPA, DERR, NEDO