



**Environmental
Protection Agency**

John R. Kasich, Governor

Mary Taylor, Lt. Governor

Scott J. Nally, Director

January 31, 2012

RE: CUYAHOGA COUNTY
CITY OF BROOKLYN HEIGHTS
ROSBY RESOURCE RECOVERY
CONSTRUCTION STORM WATER

NOTICE OF VIOLATION

William Rosby
Rosby Resource Recovery
54 East Schaaf Road
Brooklyn Heights, OH 44131

Dear Mr. Rosby:

On January 9, 2012, I conducted a compliance inspection of storm water best management practices (BMPs) at the above referenced site located at 54 E. Schaaf Road. I was accompanied on my inspection by Colum McKenna of our Division of Materials and Waste Management (DMWM), Erm Gomes of our Division of Surface Water (DSW), and Colin Johnson and Dane Tussel of the Cuyahoga County Board of Health. While on site, I spoke with Chuck Perito, Landfill Operator. Our records indicate that Rosby Resource Recovery has authorization to discharge storm water associated with construction activities under the Ohio EPA General Storm Water National Pollutant Discharge Elimination System (NPDES) Permit for Construction Activities #OHR104963. This permit authorizes storm water discharges from the construction and demolition debris (C&DD) landfill.

My inspection revealed that Rosby Resource Recovery does operate a C&DD landfill on this property; however, this is not the only activity which occurs at this facility. Mr. Perito indicated that 80% of the C&DD brought to the site is recycled rather than landfilled. Thus, the facility is primarily engaged in waste recycling activities described under Standard Industrial Classification (SIC) Code 5093: Scrap and Waste Materials. In addition, Rosby Resource Recovery operates a Class IV licensed composting facility described by SIC code 2875. Please be aware that runoff associated with waste recycling and composting operations is defined as "storm water associated with industrial activities" under Ohio Administrative Code (OAC) 3745-39-04. The existing NPDES permit for this facility does not authorize discharges of storm water associated with industrial activities.

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As such, please be aware that **Rosby Resource Recovery is in violation of Ohio Revised Code (ORC) 6111.04 for failure to obtain an NPDES permit to authorize the discharge of storm water associated with industrial activities.** Violations of ORC 6111 are punishable by fines of up to \$10,000 per day of violation.

Further, our inspection revealed that there are unauthorized discharges of leachate from this facility. In particular, we noted the following:

- Leachate associated with composting operations appears to have been pumped outside the containment berm or otherwise breached the berm around the compost windrows. In addition, a drainage channel has been established on the east end of the composting area to allow leachate to flow down the hill into a storm sewer system that discharges to the Cuyahoga River.
- Processed (shredded) C&DD debris and C&DD debris awaiting processing is stockpiled over a large portion of the facility. Please be aware that liquid that comes in contact with C&DD debris or is released by C&DD debris is defined as leachate per Ohio Administrative Code (OAC) 3745-400-01. Thus, storm water that contacts stockpiles of CD&D debris is leachate, a wastewater. The NPDES permit for storm water does not authorize the discharge of wastewater. Runoff from stockpiles of C&DD debris also discharges down the hillside into a storm sewer system that discharges to the Cuyahoga River.

These conditions were documented in the attached photographs. BMPs must be implemented to prevent the discharge of leachate from this facility. Practices may include berming, curbing and diking; collection of leachate for disposal at a wastewater treatment facility (with permission of the wastewater treatment plant operator); or storage of materials indoors or under cover so as to prevent the generation of leachate.

Due to the observed conditions, Ohio EPA believes that Rosby Resource Recovery is a significant contributor of pollutants to the Cuyahoga River. Rosby Resource Recovery has not taken action under the general NPDES permit to implement BMPs required to minimize pollutants in storm water runoff. As such, the Division of Surface Water will be placing this facility under an individual NPDES permit. This permit will address runoff not only from C&DD landfill operations, but also the waste recycling and composting operations. To obtain individual NPDES permit coverage, please submit Form 1 and 2F

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of the NPDES permit application and a comprehensive storm water pollution prevention plan (SWP3) for this facility. Per provisions in OAC 3745-38-02, please submit application materials for individual NPDES permit coverage **no later than April 30, 2012**. The application should be submitted to Erm Gomes at this office. You may contact Mr. Gomes via e-mail at erm.gomes@epa.state.oh.us or via telephone at (330) 963-1196 with any questions about the individual permitting process.

If you have any questions regarding this letter, please contact me at (330) 963-1145.

Sincerely,



Dan Bogoevski
District Engineer
Division of Surface Water

DB:bo

enclosures(s)

pc: Colin Johnson, Cuyahoga County Board of Health
Scott Broski, Northeast Ohio Regional Sewer District

ec: Erm Gomes, DSW, NEDO
Colum McKenna, DMWM, NEDO
Michael Joseph, DSW, CO

ROSBY RESOURCE RECOVERY

City of Brooklyn Heights Cuyahoga County

Photos Taken: January 9, 2012

By: Dan Bogoevski, DSW, NEDO or
Colum McKenna, DMWM, NEDO



Fig 1 (ABOVE) & 2 (RIGHT). Runoff from significant stockpiles of construction & demolition debris (visible in the background of the photo above) is directed down the eastern slope via the various drainage systems. This swale is located near the office trailers.



Fig 3 & 4. The staging area area drains via swale to the storm water management pond shown on the LEFT. However, this pond does not meet current standards for sediment ponds. The pond discharges via storm sewer to the eastern slope at the location shown in Fig 2.

Composting Operations



Fig 5-7. There is no containment berm for the eastern end of the composting operations area. Rather, a brick-lined drainage swale has been installed to direct leachate down the eastern slope.



Fig 8-10. A breach in the containment berm along the north side of the composting area has allowed leachate to enter a storm drainage system near the greenhouses resulting in an unauthorized discharge of wastewater.



Fig 11-13. It appears that leachate is being pumped outside the containment berm around the south side of the composting area. Leachate-impacted flow was observed going down the eastern slope.



Fig 14 & 15. The discharges of leachate depicted in Fig 5-13 were observed in the drainage channel at the base of the eastern slope along the railroad tracks. The drainage channel feeds a storm sewer system that discharges to the Cuyahoga River. Note the sediment-laden and leachate-impacted runoff entering the storm manhole in Fig 15 (RIGHT).



Fig 16-21. Runoff from C&DD recycling operations and stockpiles also flows down the haul road depicted in Fig 16 & 17 and then through what is intended to be a sediment pond (Fig 18). This pond is not designed to sediment basin standards. The pond then discharges to the drainage channel along the railroad tracks (Fig 19) and into a storm sewer system (Fig 20). The resulting discharge to the Cuyahoga River is shown in Fig 21.



Fig 22 & 23. Overview of area where C&DD is stockpiled along with concrete slabs and other wastes. Recycling operations area is visible in the rear of Fig 23 (RIGHT).



Fig 24 (ABOVE). The capped C&DD waste cell is visible on the left side of this photo. "Daily cover" is placed on top of the active waste placement area on the right side of this photo.

Fig 25 (LEFT). Close up view of the "daily cover" shows that it consists of shredded C&DD. Storm water that contacts this material is leachate.



Fig 26. Runoff from the capped C&DD waste cell and the active C&DD waste placement area shown in Fig 24 drains to a storm sewer system along the south side of the facility. This system discharges to the eastern slope. This photo shows a manhole that provides access to the system.



Fig 27 & 28. Secondary containment has not been provided for 5-gallon buckets and fuel tanks that contain automotive fluids. Spill clean-up procedures have not been implemented to address spills of oil and petroleum-based products.