



Mike DeWine, Governor
Jon Husted, Lt. Governor
Laurie A. Stevenson, Director

October 5, 2021

TRANSMITTED ELECTRONICALLY

Mr. Michael Bastys
Lordstown Construction Recovery
6205 Newton Falls Bailey Road SW
Warren, Ohio 44481

RE: Lordstown Construction Recovery
Notice of Violation (NOV)
NOV
Construction & Demolition Debris
Trumbull County
CDDL018743

Subject: Notice of Violation

Dear Mr. Bastys:

Thank you for accompanying us during Ohio EPA's September 15, 2021, inspection of Lordstown Construction Recovery Facility (LCR), located in Warren, Ohio. Present during the inspection were Jennifer Kurko, Assistant Chief, Northeast District Office (NEDO); Jennifer Carlin and Clarissa Gereby, Division of Materials and Waste Management (DMWM); John Schmidt, Division of Surface Water; and Erik Bewley, Division of Air Pollution Control.

The goal of DMWM's inspection was to investigate allegations in a verified complaint received by Ohio EPA on June 9, 2021, and to determine compliance with Ohio's laws as found in Chapter 3714 of the Ohio Revised Code (ORC) and Chapter 3745-400 of the Ohio Administrative Code (OAC), and the terms and conditions of the November 23, 2016, Director's Final Findings and Orders (DFFOs). We performed a comprehensive inspection, which included a review of company operations and written documentation associated with facility operations. Please note that each Ohio EPA division will provide a separate summary of the inspection results. Also, the Agency will have a separate response to the allegations contained in the verified complaint.

DMWM Findings

Ohio EPA observed the following violations of Ohio's environmental laws and the November 23, 2016, DFFOs. In order to resolve the violations at LCR, we recommend promptly addressing the violations:

1. **OAC Rule: 3745-400-11(F)(4):** *"The owner or operator shall deposit incoming loads of debris at a designated unloading zone where the debris shall be inspected and prohibited wastes shall be removed, unless the owner or operator has received approval of and has implemented a pre-acceptance debris screening program at the facility."*

OAC Rule: 3745-400-11(F)(4)(a): *"The owner or operator shall unload the debris in clearly designated and marked unloading zones separate from the working face. Unloading zones may be temporary and adjacent to the active working face. Upon inspection of the unloaded debris, the owner or operator shall remove prohibited materials prior to placing the debris on the working face. No prohibited materials are permitted to be disposed at the working face. The owner or operator shall remove any prohibited material found at the working face."*

OAC Rule: 3745-400-11(F)(4)(b): *"The owner or operator shall clearly mark the limits of the unloading zone with at least two temporary markers."*

(a) Description: The incoming loads of material were not deposited at a clearly designated and marked unloading zone separate from the working face. The material was not inspected after unloading. Prohibited waste such as solid waste (a.k.a. municipal solid waste [MSW]) was not removed after unloading.

(b) Further information: During the inspection, incoming loads of material were deposited at the working face. There was no physical separation being maintained between the point where the material was unloaded and the working face. (See attached photos #1 and #2 below.) No pickers were present at the unloading area to remove prohibited waste. We inquired about the lack of pickers and were told they were on a break and would return shortly. Once the pickers did arrive, they attempted to pick from the area below the cliff of material; however, it was impossible to do so considering the volume of material, the positioning of the material, and the amount of solid waste present. Prohibited materials were being disposed at the working face. While walking the working face, we noted the presence of a large amount of MSW including such items as pails, pop cans, drink bottles, milk jugs, crates, yard waste, toys, shoes, magazines, books, a CD, a roll of plastic sheeting, a steel canister, a remote control, area rugs, a cassette tape, clothing, a garden hose, tools, many cushions, mattress springs, and large amounts of cloth. (See photos #3 - #10 below.) Even if picking had been attempted, it would have been unsafe to reach. The significant volume of prohibited material was irretrievable from an estimated 25-foot cliff face. (See photos #11 and #12 below.) Solid waste disposal was also observed in areas of waste placement from days prior.

2. **OAC Rule: 3745-400-11(F)(4)(c):** *"Once prohibited materials are removed, the owner or operator shall spread and compact the debris on the working face. When debris is deposited on the working face, it shall be spread evenly over the working face and compacted to the smallest practical volume."*

OAC Rule: 3745-400-11(F)(4)(d): *"Cliffing is prohibited. For the purpose of this rule, cliffing is the formation of an edge or cliff by the placement of debris at the working face without compacting."*

(a) Description: The material was not spread and compacted evenly over the working face and compacted to the smallest practical volume. Significant cliffing was observed in the working face.

(b) Further information: Once the material was unloaded, it was pushed to form a cliff. The cliff of material was approximately 25 feet in height. This cliffed material was not compacted to the smallest practical volume nor spread evenly over the working face. (See photos #11 and #12.)

3. **OAC Rule: 3745-400-11(F)(3):** *"The owner or operator of a facility shall not dispose of any solid wastes..."*

OAC Rule: 3745-400-11(F)(6): *"The owner or operator shall attempt to remove all solid wastes from the construction and demolition debris prior to disposal of construction and demolition debris on the working face of the facility as required under section 3714.021 of the Revised Code."*

(a) Description: Solid wastes were disposed at the facility.

(b) Further information: Prohibited materials were being disposed at the working face. While walking the working face, we noted the presence of a large amount of MSW including such items as pails, pop cans, drink bottles, milk jugs, crates, yard waste, toys, shoes, magazines, books, a CD, a roll of plastic sheeting, a steel canister, a remote control, area rugs, a cassette tape, clothing, a garden hose, tools, many cushions, mattress springs, and large amounts of cloth. In addition, we observed MSW and C&DD protruding from daily cover in a disposal area that you indicated had been used as the working face earlier that week (our inspection took place on Wednesday). We viewed a significant amount of MSW through the inadequate cover in this area, including balls, toys, shoes, mattress springs, cushions, paper, buckets, milk jugs, bottles, etc., and several tires. The owner or operator did not attempt to remove all solid wastes from the material prior to or after the disposal on the working face.

4. **ORC 3714.021(B):** *"The owner or operator of a construction and demolition debris facility that is licensed under this chapter shall attempt to remove all solid wastes from construction and demolition debris prior to the disposal of the construction and demolition debris on the working face of the facility. Except as otherwise provided in this division, the existence of solid wastes on the working face of a construction and demolition debris facility does not constitute a violation of this chapter and rules adopted under it if both of the following apply:*

(1) The wastes constitute not more than two cubic yards per one thousand cubic yards of construction and demolition debris or four cubic yards per one thousand tons of construction and demolition debris disposed of at the construction and demolition debris facility based on the amount of construction and demolition debris disposed of at the facility on the preceding full business day as determined by using the amount of disposal

fees collected under section 3714.07 of the Revised Code for wastes disposed of at the facility on that preceding full business day.

(2) The owner or operator or the employees of the facility remove the solid wastes from the working face of the facility.”

(a) Description: (1) On several days in August and September 2021, the solid wastes constituted more than two cubic yards per one thousand cubic yards of construction and demolition debris disposed of at the construction and demolition debris facility based on the amount of construction and demolition debris disposed of at the facility on the preceding full business day. (2) The solid waste was not removed from the working face.

(b) Further information: According to the daily log of operations, the owner or operator disposed of 6,866 cubic yards of C&DD on September 1, 2021. On the following full business day, on September 7, 2021, records indicate that 19 cubic yards of solid waste was disposed of at the facility and were subsequently removed at the working face. Disposal of solid waste in a C&DD landfill is a violation of Ohio law. However, in accordance with ORC Section 3714.021, an owner/operator may avoid being cited for illegal disposal of solid waste, if the waste is removed and that solid waste does not compromise more than two cubic yards of C&DD per every 1000 cubic yards of C&DD disposed the preceding full business day. In this situation then, the owner or operator should have taken measures to ensure that not more than 13.7 cubic yards of solid waste was disposed of in the working face. Therefore, LCR is in violation because it is disposing solid waste in its facility.

5. **OAC 3745-400-11(F):** *“Waste acceptance and disposal. 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, except as specified in this rule.”*

(a) Description: The material was not readily identifiable as construction and demolition debris.

(b) Further information: During our inspection, it was noted that the material that was unloaded at the tipper car and disposed of in the working face was shredded, pulverized, or otherwise rendered to the extent that it was unidentifiable. Much of the material, including what was visible from the top of the rail cars in the tipper area, had an overall uniform appearance and it was not readily identifiable as C&DD. Much of the material had no dimensional components of wood-like material and no void spaces or other common visual signs to readily determine the material came from a structure. This material appeared to have been crushed and processed for volume reduction. (See attached figures #13 - #16 below.)

6. **OAC 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."*

Order 14, November 23, 2016, DFFOs: *Upon the effective date of these Orders, Respondents shall implement the Odor Control Compliance Plan attached as Exhibit A, and fully incorporated herein.*

#1 Odor Control Compliance Plan : *"Upon the effective date of the Plan, at the working face, LCR shall apply each day the Facility is open a daily cover consisting of a soil layer, a minimum of six inches thick, or an alternative daily cover upon written approval of the Director of Ohio EPA (the "Director"), at the end of the working day, but in no event shall debris be exposed for more than twenty-four hours after placement at the working face. The minimum six-inch soil layer shall not contain solid waste, C&DD, pulverized debris, sludge, slag, compost, compost product or contaminated soils. The minimum six-inch soil layer to be applied at the working face, shall be nonputrescible, shall have a low permeability to water, good compactability, cohesiveness, and relatively uniform texture, and shall not contain large objects in such quantities as may interfere with its application and intended purpose to prevent the emission of hydrogen sulfide or other gases created by the operation of the Facility that pose a nuisance."*

(a) Description: LCR did not properly implement Order #14 of the November 23, 2016 DFFO in areas where inadequate daily cover was observed.

(b) Further information: During our inspection, it was noted that in two areas where debris was placed previously, there was inadequate daily cover. There was exposed debris and waste without the minimum six inches of soil cover.

While we were observing the activity near the working face, we noted an area to the east that had exposed debris and waste. We walked the area and were told that it was the working face for the past Monday and Tuesday (prior to our Wednesday inspection). There was inadequate cover and both MSW and C&DD was exposed. There was a significant amount of MSW present, including balls, shoes, mattress springs, cushions, bottles, etc., and several tires were visible. In addition, an area located to the west of the working face, where the haul road curves down the hill, had exposed debris and inadequate daily cover. (See photos #7 - #10 below.)

7. **OAC 3745-400-11(B)(17):** *"The owner or operator shall not cause water pollution."*

(a) Description: During our inspection, it was observed that leachate is being discharged to Outfall 31N00390004.

(b) Further information: Large amounts of material and waste had accumulated along the tracks used by the large rail cars. During the removal of material from the rail cars, material spills from the rail cars/grapples to the inside and outside of the tracks. The material and waste on the outside of the tracks were piled as high as three feet. We were informed that the outer rail track area gets cleaned either at the end of the

day if there is time or at least once a week on Fridays. During precipitation events, the liquid that comes in contact with the waste is considered leachate. As it was raining during our inspection, we witnessed tannin colored leachate forming next to the tracks. There are no engineered leachate collection components at the rail lines. The leachate flows from the rail lines to Sediment Basin 4, where it was observed that waste had entered the pond. (See figures #17 and #18 below.)

8. **OAC 3745-400-11(B)(9):** *"The owner or operator shall keep a daily log of operations of the facility that contains all the information specified on forms prescribed by the director. All entries required by the log form shall be completed. A copy of the log shall be available for inspection by the licensing authority during normal operating hours. When required by the licensing authority, log forms or summaries of daily logs shall be submitted to the licensing authority. The owner or operator may use alternate forms, either in paper or electronic formats, for the daily log of operations, provided that all of the information requested on the prescribed forms is present."*

(a) Description: Not all entries of the facility's daily log of operations were completed.

(b) Further information: There were no entries in Table 2 of Form 3 for the Daily Log of Operations. Table 2 of Form 3 is to be filled out daily with the following information: the disposal facility and the hauling company that took the prohibited material to a proper disposal facility; the name of the company maintaining the container used for collecting prohibited materials; the volume of the containers used for the collection of the prohibited materials; and a description of removed material. After the September 15, 2021 inspection and upon request, we were forwarded copies of a bill for June, 2021 and a bill for July, 2021 for removal of tire boxes and 40 cu. yd. waste containers by Republic Services. The submitted paperwork does not meet the requirement that all entries required by the log form shall be completed.

CONCLUSION:

Ohio EPA requests that Lordstown Construction Recovery C&DD Facility promptly undertake the necessary measures to resolve the violations of Ohio's environmental laws and regulations. **Within 30 days of receipt of this letter**, please provide documentation to Ohio EPA of the actions taken to resolve the violations cited above. If you have already resolved the violations listed above, thank you, and please provide documentation supporting compliance. If you have not yet addressed the violations, please submit a compliance plan on how the company plans to correct the violations cited above. Documentation of steps taken to return to compliance includes written correspondence, updated policies, disposal receipts, and photographs, as appropriate, and may be submitted via the postal service or electronically via e-mail or the file sharing address listed below.

Failure to comply with Chapters 3714 of the ORC and rules promulgated thereunder may result in an administrative or civil penalty. If circumstances delay resolution of violations, please submit written correspondence describing the steps that will be taken by date certain to attain compliance.

Please note that the submission of any requested information to respond to this letter does not constitute waiver of the Ohio EPA's authority to seek administrative or civil penalties specified in the ORC.

At this time, we will not be issuing hard-copy mail. This letter is an official response from Ohio EPA that will be maintained as a public record.

I am the newly assigned inspector for your facility. If you have any questions, please contact me at (330) 963-1133, or by email at Jennifer.Carlin@epa.ohio.gov.

Future electronic submittals should be submitted via DMWM-NEDO's secure file sharing site: https://fileshare.epa.ohio.gov/filedrop/nedo_dmwm_submittals.

Sincerely,

A handwritten signature in cursive script that reads "Jen Carlin".

Jennifer Carlin
Environmental Specialist
Division of Materials and Waste Management

Attachments: Photo log

ec: Kevin Frances, Trumbull County Health Department
Michael Bastys, Lordstown Construction Recovery C&DD
Allyson Zurawski, Lordstown Construction Recovery C&DD

LORDSTOWN CONSTRUCTION RECOVERY, Village of Lordstown, Trumbull County
Photos Taken: September 15, 2021
By: Jennifer Carlin, DMWM, NEDO



Fig 1 (Left): Unloading zone. The incoming loads of material were not deposited at a designated unloading zone and waste was pushed further into the working face.

Fig 2 (Right) Unloading zone. The trucks unload directly into the working face.



Fig 3 (Left): Prohibited materials disposed at the working face

Fig 4 (Right): Prohibited materials disposed at the working face



Fig 5 (Left): Prohibited materials disposed at the working face

Fig 6 (Right): Prohibited materials disposed at the working face



Fig 7 (Left) Area to the east of the working face that had inadequate cover and both MSW and C&DD were exposed.

Fig 8 (Right): Area to the east of the working face that had inadequate cover and both MSW and C&DD were exposed.



Fig 9 (Left): Area to the east of the working face that had inadequate cover and both MSW and C&DD were exposed.



Fig 10 (Right): Area to the east of the working face that had inadequate cover and both MSW and C&DD were exposed.



Fig 11 (Left): Clipping. The uncompact cliff of debris approximately 25 feet in height. Clipping. Debris being pushed back into the working face to form a cliff of debris.



Fig 12 (Right) Clipping. Debris being pushed back into the working face to form a cliff of debris.



Fig 13 (Left): Some waste at the tipper car area was not readily identifiable as construction and demolition debris.

Fig 14 (Right): Tipper car being unloaded with pulverized debris.



Fig 15 (Left): Waste at the working face was not readily identifiable as construction and demolition debris.

Fig 16 (Right): Waste at the working face was not readily identifiable as construction and demolition debris.



Fig 17 (Left): Tannin colored leachate found on the inside of the track after the rain.

Fig 18 (Right): Waste along the railroad tracks spilled from the rail cars/grapples along the tracks.