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CERTIFIED MAIL

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Dear Ms. Carlin,

This correspondence incorporates the verified Complainant's rebuttal to the Lordstown Construction Recovery Landfill's (LCR) 11/02/2021 response letter to the Ohio EPA's 10/05/2021 Notice of Violations. The NOV's included numerous violations found during the Agency's 9/15/2021 inspection of the landfill.

***Ohio EPA Violation: 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."***

***(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." (underline added)***

***LCR/Lafarge Response: "At the time of the September 15th inspection, the two unloading signs required by OAC Rule 3745-400-11(F)(4)(a) had been moved and were not properly located to designate the unloading zone that was adjacent to the working face. Because the location of the unloading zone can change daily as C&DD waste placement progresses, the signs were inadvertently not moved back to properly designate the unloading zone. LCR purchased four new signs that were placed on October 15, 2021 to better designate the unloading zone and to clearly separate the unloading area from the working face (Attachment1-Unloading Zone Pictures).***

During the time of the September 15th inspection, picking staff/pickers were on break from approximately 9:00 am to 9:30 am and material that was unloaded was not inspected until staff returned from break.

LCR has changed its employee break/lunch procedure and staggers employee break times so that pickers are always present at the unloading zone and working face during unloading to inspect loads and promptly remove prohibited solid waste. Operators have been instructed not to unload their trucks until pickers are present at the unloading zone.”

**Complainant’s Rebuttal to LCR:** LCR’s response is replete with falsehoods and misrepresentations.

LCR states that "the signs were inadvertently not moved back to properly designate the unloading zone" and that "LCR purchased four new signs that were placed on October 15, 2021 to better designate the unloading zone and to clearly separate the unloading area from the working face".

These tidbits of disinformation are *irrelevant* as LCR does not operate an unloading zone as required by the regulations. New, shiny signs do not create a compliant operation...how LCR operates between the signs does. Per the Ohio EPA’s NOV: “There was no physical separation being maintained between the point where the material was unloaded and the working face.” (underline added)

LCR's pickers, when they are actually performing the picking tasks, still work from the toe of the working face, not within the unloading/inspection zone as required, because of the overwhelming volume of incoming material. Per the Ohio EPA regulations, the working face, as the final resting place of the waste, is where the waste is pushed *after* the C&DD is inspected and picked.

Thus, thousands of tons of solid waste, household hazardous wastes, liquid filled drums and containers, tires and other illegal materials are buried in a Non-Subtitle D designed and constructed landfill.

In October 2021, LCR received 147,000 cubic yards of waste or approximately 6,400 cubic yards per day. On 10/25/2021, LCR received 8,620 cubic yards; with breaks and lunch, this equates to more than 1,000 cubic yards per hour or the equivalent of a curbside garbage truck *every 2 minutes*.

LCR states that “picking staff/pickers were on break from approximately 9:00 am to 9:30 am and material that was unloaded was not inspected until staff returned from break.”

This statement is a complete fabrication. At 1,000 cubic yards per hour, a 30-minute break means that approximately 500 cubic yards were unloaded at the landfill without pickers working. How could the pickers, who cannot maintain appropriate inspection and waste segregation work at the 1,000 CY/hour rate, have the time after their break to inspect an *additional* 500 CY? This is not at all possible, even if they had the time, since the “break” waste is now deeply buried under more incoming waste. Per the Ohio EPA: “Even if picking had been attempted, it would have been unsafe to reach.” (underline added)

LCR’s Ohio EPA Certified C&DD Landfill Manager admits that for as least as long as he has been the landfill manager that this practice of picker breaks has been maintained. *Only now* will the picker crew have staggered breaks. Please note that under the United Steel Workers collective bargaining agreement with LCR, the workers also get an afternoon break.

Per LCR's "30-minute break" representation, two breaks per day reflects a total of 1,000 cubic yards *per day* or a *quarter of a million cubic yards per year of wastes that has gone uninspected*. And this is the *best-case* scenario assuming the pickers are actually working as required during the other hours.

The proposal for staggering the picker breaks is illogical and false. Rotating pickers for their breaks significantly reduces the waste inspections and manpower from an already overwhelmed work force. Furthermore, *for at least 16 years the entire landfill crew has taken its breaks at the same time*. The compactor and dozer operators don't drive their massive equipment to the lunchroom and back. Doing so would take most of the break period, beat up the equipment and consume significant fuel. The landfill workers all break together using employee vans and trucks to get to the employee lunchroom. Therefore, minimal waste is unloaded during any break.

The "break" excuse and the "remedy" are simply fabrications and have been used on several previous occasions by LCR when they have been caught off guard during unexpected inspections.

Between other tasks around the landfill, call-offs, and the refusal of the Company to increase manpower and incrementally reduce their profits, few pickers, if any, are available to perform the actual picking tasks at the landfill on any given day. And even those pickers are only working the toe of the working face and *not the unloading zone*.

The simple truth is that LCR does not use the regulatorily required unloading zone to identify and remove solid and other illegal wastes. The Ohio EPA required process has not been utilized in a decade. When waste is actually picked at LCR it is done at the toe of the working face which is defined as the "final resting place".

Again, as with the many other observations by the Ohio EPA on 9/15/2021, the non-compliant conditions *were not a coincidence of bad timing or a fluke*. What was observed during the unannounced inspection in September was nothing more than standard procedures of the Lordstown Construction Recovery Landfill having zero pickers working the unloading zones.

***Ohio EPA Violations: 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.)***

**LCR/Lafarge Response:** “LCR has Standard Operating Procedures (SOPs) and Best Management Practices (BMPs) that specifically address cliffing. The SOPs/BMPs specify even compaction of waste along the working face in two to three foot lifts, which is a commonly accepted practice, to help ensure the smallest practical volume is achieved. LCR Management conducted training with staff on October 10, 2021 and October 15, 2021 to review SOP/BMP requirements and will periodically conduct refresher training to help ensure compliance with the regulatory requirements.

A task to conduct semi-annual refresher training was added to LCR's digital environmental management system which will send LCR Management an email reminder. New hires are also trained prior to beginning work assignments.”

**Complainant's rebuttal to LCR: Nonsense.**

Regardless of claims of “SOPs”, cliffing is commonplace at LCR and, although unacceptable, it is a practical necessity due to the overwhelming volume of incoming waste. An acre that is one foot thick of waste occupies 1,613 cubic yards. The 147,000 cubic yards received by LCR in October, with compaction and daily cover factored, and spread two feet thick per industry standards, would cover approximately 40 acres or 1/3 of the entire landfill's ALDA *in one month*.

By placing the waste 15 feet to 30 feet thick, much less surface area is required and, therefore, less compactor fuel is required and significantly less daily cover is needed. Since LCR has no in-situ soil reserves, it depends on third parties with cover material at a premium. Reducing/eliminating daily covering directly reduces operational expenses, but unfortunately, enhances leachate and toxic gas production.

“Dump and push” is the motto at LCR and quite frankly, at 1,000 cubic yards per hour, it is all that the equipment operators can manage. There is minimal waste compaction, little to no waste inspection and, if LCR management can radio the widely spread crew fast enough when inspectors arrive, only window dressing pickers performing the required task. The Complainant has witnessed the faux exercise many times.

Adding additional “electronic reports”, “email notifications” and an additional training session is a flailing attempt by LCR to report to the Ohio EPA that they are doing *something in response to the NOVs*. The “additional training” disingenuously implies that the equipment operators forgot the difference between a two foot lift of waste and the 25 foot tower of waste pictured in the 9/15/2021 NOV.

Furthermore, how is it after 17 years of operation, and with a current on-site Ohio EPA Certified C&DD Landfill Manager and an on-site assistant landfill manager, that this issue is just now being corrected by the operations personnel? Does LCR actually need a “digital refresher” to understand the most basic requirement of landfill operations?

**Ohio EPA Violations: 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. (underlines added)*

LCR Response: “LCR follows OAC Rule 3745-400-11(F) as their SOP/BMP which specifically addresses the identification and removal of solid wastes from the C&DD brought to the LCR facility. LCR Management conducted training with staff during the week of October 4, 2021 to review the OAC Rule requirements and will periodically conduct refresher training to help ensure compliance with the regulatory requirements. Following the Ohio EPA's September 15th inspection, LCR Management implemented a daily inspection to ensure proper procedures and removal of solid waste from the working face are conducted in accordance with the OAC Rule. At ask to conduct semi-annual refresher training was added to LCR's digital environmental management system which will send LCR Management an email reminder. New hires are also trained prior to beginning work assignments. While there was waste material between the rail tracks during the inspection and LCR is implementing measures to improve its practices in that area, LCR has not allowed waste materials to "remain upwards of a week" at the rail car unloading area. That statement is not accurate and it would not be possible for the inspector to make such a determination during a single day inspection.” (underline added)

**Complainant's rebuttal to LCR: More Nonsense.**

Every picker, whether a LCR employee or hourly day worker, must review and sign off on LCR's training manual. It covers the full range of unacceptable wastes with photographs, safety issues and reporting requirements for workers. This important topic has also been covered many times during on-site annual training. Also, all new hourly employees start at LCR as pickers (per the USW agreement) and go through detailed picker training before they ever go onto the landfill.

LCR states in their response that: “LCR Management implemented a daily inspection to ensure proper procedures and removal of solid waste from the *working face*”. Regardless of any impact on Lafarge's profiteering, the regulations rightly require that picking *must occur within the unloading zone and not the working face*.

LCR's response clearly demonstrates that Lafarge's management *cannot reconcile the requirements of the regulations with their own profit goals*.

***The Complainant was LCR's landfill manager over 10 years ago and did facilitate C&DD unloading and picking within the appropriate and regulated unloading zone. At that time, the process appeared to slow waste flow into the landfill by approximately 15%. This reduction was unacceptable to Lafarge as it potentially reduced revenue and profits. However, the previous process did allow greater unacceptable waste removal, was safer for the workers and was compliant with the Ohio EPA's regulations.***

**In any case, OAC 3745-400-11 (F) (a) is abundantly clear:**

***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. (underline added)***

**At the risk of being redundant, LCR cannot perform the solid and unacceptable waste removal as required by OAC 3745-400-11 due to the enormity of wastes being unloaded at the landfill. Under these extraordinary conditions the closest thing to actual picking that can be performed is at the working face. Besides profiteering, this is why LCR will not budge from their position and process.**

***Worse violations* were observed at the disposal areas that were used *several days before* the 9/15/2021 inspection. In multiple areas from *previous* operations, solid wastes were exposed due to inadequate cover. How do several days go by and the managers not view the landfill and see that illegal wastes were not picked out and that cover was not applied as required by both the regulations and the 2016 Ohio EPA consent order?**

**These violations had nothing to do with "pickers breaks" or the need for additional training or electronic messaging...it is a direct result of LCR's incompetence and the Lafarge's unwillingness to reduce volumes and revenue.**

**LCR has generated more than \$200 million in 17 years of operation. Senior management has no clue of the on-site realities as they don't have landfill operations experience and rarely, if ever, visit the site. Their corporate focus is on monthly, quarterly and annual revenue and profit targets. Period. 90% of the 2020 bonus structure for managers was based on meeting profit targets and 0% was based on environmental compliance.**

**LCR's statement:** "LCR has not allowed waste materials to 'remain upwards of a week' at the rail car unloading area. That statement is not accurate and it would not be possible for the inspector to make such a determination during a single day inspection." **This response completely ignores that this statement was made by the LCR manager to the Ohio EPA inspectors on 9/15/2021 per the NOV itself.**

**"Leave the cash cow alone". "NOVs cost nothing...so what's the problem?" "Don't kill the Golden Goose". These are phrases have been repeatedly stated by Lafarge managers. Please note that Ohio is a one-party state relative to recording conversations.**

**Ohio EPA Violation:** 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. (underlines added)

**LCR Response:** “To help avoid the receipt and acceptance of unidentifiable materials at LCR, customers are required to sign off on manifests (railcar shipping papers) which state that only C&DD is acceptable at LCR (Attachment3-ShippingManifest).

The manifest for each load of waste includes the question "Will the debris be unprocessed or processed/shredded?". When a customer indicates that the waste is processed/shredded, the load is rejected. Additionally, when a load is received but observed by LCR staff as not readily identifiable as C&DD, LCR staff promptly report the load to LCR Management who then completes a waste rejection form (Attachment 4-Discovery of Prohibited Materials Supplemental Report Form), takes pictures of the load, and returns the load to the rail car which is shipped back to the customer for proper handling/disposal.

To date in 2021, six rail carloads have been rejected and returned to customers because of solid waste contaminants or unidentifiable construction materials. Contaminants included household items, clothes, yard waste, tires and furniture.

Some railcars may exhibit some smaller debris as a result of handling the C&DD multiple times. This includes when the C&DD is initially generated from a demolition site and scooped into transport vehicles, when the C&DD is deposited at the transfer station and sorted, and again when the C&DD is loaded from the transfer station into railcars destined for LCR. LCR employs SOPs/BMPs to ensure the receipt of smaller debris is minimized.

Sales staff for LCR typically travel to our customers/transfer stations at least once per month to visit, and have the right to inspect the waste destined for LCR.”

**Complainant's Rebuttal to LCR: Yet more SOPs, BMPs and falsehoods.**

If all of LCR's SOPs and BMPs were actually followed, there might not be countless violations and dozens of NOVs. Having procedures written on paper to show regulators is quite handy; it makes it appear that Lafarge's management actually cares about waste control and the regulations.

If LCR was truly concerned, they would employ legally binding, multi-sheet manifests. As they exist, LCR's manifests mean *nothing*. And what customer is actually going to give written acknowledgement that the waste is pulverized with full knowledge that it is illegal for LCR to receive it?

Pulverized waste has been received by LCR for over a decade. The Complainant sent a detailed internal memorandum to senior management, with photographs, on this issue in 2012. The memorandum also included evidence of the cocktailing of thousands of tons of East Coast sewage sludges and the on-going acceptance of other illegal wastes such as asbestos. The Complainant was removed from his previous position shortly afterward by Lafarge management. The Complainant can provide said memorandum, photographs, lab results and the associated emails upon request.

LCR states in their response that 6 railcars were rejected year to date for unacceptable wastes. LCR has received more than 5,000 railcars to date in 2021. Therefore, 99.9% of the railcar wastes received this year were deemed acceptable to LCR, *yet the waste viewed during the 9/15/2021 inspection was not identifiable or acceptable*. The Ohio EPA pictures clearly show that the waste is pulverized and unidentifiable.

Are we to believe that the 00.1% of this year's illegal waste just happened to arrive on 9/15/2021? Did LCR reject that waste during the inspection? Does LCR track rejected loads to prove that it was returned to the customer and not just "looped back" by CSX? How does LCR's single page "manifest system" work under these conditions?

Identifiable waste training is required for every manager to receive and maintain the Ohio EPA's C&DD Landfill Operator Certification. The LCR certified manager's systematic acceptance of illegal unidentifiable waste is willful and unlawful and his Ohio EPA certification should be revoked per OAC 3745-400-11 (B)(11)(ii).

Lafarge does have a C&DD sales agent who does periodically visit the East Coast waste generators. The sales agent previously worked as a dumpster leasing agent for a number of years and knows the basics of solid waste. While LCR states that the sales agent "has the right to inspect waste destined for LCR", no waste inspection reports, photographs, transfer station operation notes, consultant audits or other pertinent information has ever been provided by the sales agent. Notice the neatly crafted phraseology of LCR's response does not say that the agent actually inspects anything.

Needless to say, Lafarge's customer sales representative, who is attempting to nurture their relationship with the waste generator/customer in an effort increase both the volume of C&DD and its pricing for LCR, has an inherent conflict of interest with any objective auditing of LCR's customers' waste management practices. Criticizing the generators would imperil Lafarge's ever-growing need for more and more volume and profits.



The Complainant created a detailed East Coast transfer station inspection form that was rejected by Lafarge. That multi-page inspection form and associated emails can be provided upon request. No other transfer station inspection program has since been implemented by LCR.

Simply put, LCR knowingly receives massive quantities of unidentifiable waste and has done so for over a decade. Again, the findings of the Ohio EPA's 9/15/2021 inspection were not a fluke.

**Ohio EPA Violation 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 non-putrescible, 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.*** (underlines added)

**LCR Response:** “Pursuant to the Order, LCR places six inches of daily cover over the working face at the end of each working day. To verify that cover is adequate, LCR has implemented a new electronic inspection program using the Parsable platform and will conduct daily inspections to review and confirm the adequacy of daily cover during normal operations of the facility.

The inspection will be conducted by a LCR Supervisor or an authorized trained employee to ensure there is adequate daily cover of six inches per Order #14 of the 2016 DFFO. The inspection includes daily pictures for verification (Attachment5-Parsable Daily Cover Inspection), copies of which can be provided to the OEPA upon request.”

**Complainant’s rebuttal: A tiny move in the right direction**

It is almost laughable that another “electronic inspection” program needs to be instituted by LCR to ensure that daily cover is applied to waste that is located three minutes from the landfill office. But daily pictures proving the LCR management team can perform the most elementary function is a move forward. But it is only a matter of time before those pictures are digitally altered to demonstrate compliance.

As LCR has zero in-situ soil, the submission of a monthly inventory report of on-site stockpiled cover material is recommended. When daily cover is actually applied as required, LCR consumes between 15,000 to 20,000 tons of soil *per month* as tracked for years by LCR’s internal inventory process.

**Ohio EPA Violation: OAC3745-400-11(B)(17):** “*The owner or operators 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.)***

**LCR Response:** “Discharge offsite from Outfall 31N00390004 has not occurred since at least November 2018 when LCR hired EnviroScience to conduct outfall sampling. It is unknown when, prior to November 2018, Sedimentation Pond 4 discharged offsite.

However, during the September 15th inspection, there appeared to be potential for leachate to enter Sedimentation Pond 4, which is permitted to discharge offsite via Outfall 31N00390004. To help eliminate the creation of leachate in/around the rail unloading area and at the rotary dumper, LCR has updated *Report No. 177706-0117-005: Best Management Practices for Rail Car Off-Loading Pad for Lordstown Construction Recovery, LLC*, originally dated January 4, 2017. The Revised BMP Report (Attachment 6- BEST MANAGEMENT PRACTICES AND GOOD HOUSEKEEPING PROCEDURES FOR DEBRIS TRANSFER ACTIVITIES, Last Updated October 2021) has been implemented and specifies a full-time cleaning crew to remove waste from the railcar unloading area. The crew continuously picks up and removes solid waste, including waste beyond the rail car unloading area due to wind events during operating hours.

A daily inspection was developed and is being completed using the new Parsable electronic inspection platform (previously described in Response #6) by a LCR Supervisor or an authorized trained employee. The inspection includes daily pictures to verify adequate waste removal from the rail car unloading area (Attachment 7-Daily Rail Housekeeping Inspection), copies of which can be provided to the OEPA upon request.”

**Complainant’s rebuttal to LCR: It only gets deeper and deeper**

LCR never adhered to the original “BMPs” for track clean-up, so it is unclear why the Agency would accept that LCR would follow their “revised” BMP Plan. The original BMP Plan, required per the 2016 DFFO’s, was never approved by the Ohio EPA, nor should the revised BMP Plan be approved.

Please note the tracks are only partially owned by LCR and the balance of tracks are owned by CSX and are directly connected to CSX’s mainline that runs from the East Coast to Chicago. This means the tracks are under the Federal Railroad Administration’s (FRA) regulatory purview. No worker is allowed to work on an “open track” when live power can access that track.

To perform clean-up work and not violate federal law (or common-sense safety), the track(s) must be “blue flagged” and derailleurs installed to prohibit the possibility of workers being killed or maimed by power units using the line to pull up loaded waste cars or to push down empties. The Complainant created the first comprehensive 50-page railcar safety program for Lafarge North America in 2010. “Blue flagging” is included in the training manual.

Brakes failing, railcars de-coupling, human error and poor visibility are several of the factors which have caused 11 railroad employee deaths and over 3,000 serious injuries in the US during 2020.

**Per the “revised” LCR track clean-up BMP Plan:**

“Once staged, railcars in Area 1 are emptied first. Once the material handlers/grapples are finished unloading the railcars staged in Area 1, the empty railcars are pushed away and minor spillage adjacent to and between the tracks in Area 1 is cleaned.

Area 2, which was being cleaned while the railcars in Area 1 were being emptied, is then staged with full railcars and the material handlers/grapples transfer debris from the gondola rail cars to the off-road haul trucks. Throughout the day, full railcars and the cleaning crew exchange locations.” (underline added)

If LCR can perform this work in compliance with their “revised” BMPs and with the FRA and industrial rail work safety standards, leachate production could be reduced *but not eliminated*. In any case, LCR’s extensive history of non-compliance with their ever-promised protocols is the best indicator of future failures.

Please note the pickers traditionally have doubled as the clean-up crew. The Complainant strongly recommends that the Ohio EPA request a roster of LCR workers to demonstrate who are the pickers, track cleaners, site and street rovers, and meter readers. If the pickers are cleaning the tracks, then LCR is back where they have always been: pulling the landfill pickers to perform other work promised by Lafarge management.

This may seem like an extraordinary request but LCR’s undeniable decade-long recalcitrance is just as extraordinary. Please note that the landfill manager may sign the NOV response/promise keepers letters but upper management and attorneys craft the verbiage and the unsustainable programs.

Historical weather records show that the Warren area receives precipitation an average of 160 days a year or 44% of the days. The rain falls on the railyard’s spilled waste all day long and the leachate either drains into the subsurface or into Pond #4. The resultant contaminated water that collects in Pond #4 either drains into the groundwater through the unlined base of the pond or discharges to the unnamed tributary to Duck Creek.

Due to percolation, unlined Pond #4 does not discharge very often. It *does discharge* when the sediment has built up and/or when there is greater than 1 inch of rain. A historical review of the SWPPP inspections will show that not only does Pond #4 discharge but that the Pond #4’s southern wall collapsed into the unnamed tributary due to sediment loading. Pictures of this catastrophic event can be provided upon request.

LCR has cameras located over the entire site and has several in the general railcar unloading area, installing another camera on this critical discharge point is not a hardship.

It appears that the unpermitted forebay to Pond #4, which was installed in a desperate attempt to capture wastes floating from the rail dig-out area before entering the pond, was choked with sediment and waste at the time of the 9/15/2021 inspection. Although designed, and approved by management, to be much easier to maintain than the larger, deeper Pond #4, LCR still has made no attempt to maintain the forebay.

After the 2016 DFFOs were issued, LCR had at least three different railcar unloading leachate prevention/collection designs completed by CEC and other firms.

The various detailed plans included placing a roof over the unloading area similar to what the Sunny Farms and Tunnel Hill landfills utilize, as well as a cement pad with a leachate collection system which includes holding tanks.

Another design that was created for LCR included a leachate collection system which drained directly into the landfill. It was somewhat similar to LCR's current proposal for the truck unloading area as described in their 11/02/2021 DSW NOV response letter. These previous designs can be provided upon request.

Lafarge as usual, did not want to expend the capital for a roof or leachate collection system and instead, generated the current, feeble BMP track clean-up program which has now boasts of "revised" promises but contains no guarantees. Only a roof guarantees that waste contact water will not be generated at the railcar unloading operation which is why genuinely proactive landfill companies utilize them. The roof also eliminates the need for daily track cleaning crews, blue flagging, chasing wind-blown debris, fugitive dust control and stopping waste from floating into Pond #4.

Compounding the site's problems is that the current malfunctioning leachate holding tanks at the western base of the rotary dumper are not maintained and are continually choked with mud and debris. Additionally, pre-landfill underground drainage lines run throughout the base of the entire rotary dumper/railcar dig-out areas and flood upon heavy precipitation events.

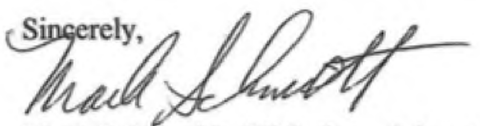
The bottom line is that only a roof design over the railcar area, with a leachate collection system, similar to what is required for waste transfer stations in Ohio and is used by LCR's competitors, will adequately protect the environment from waste contact water and toxic dust. Considering that LCR generates more than \$10 million a year, such an improvement is both affordable and long overdue.

LCR's 11/02/2021 NOV response letter includes yet another long list of paperwork promises that Lafarge attempts to appear tangible through smoke and mirrors. Yet, like the paperwork promises of the past 40 NOV responses, the newest proposals do nothing to resolve the basic problems which include the overwhelming volume of illegal wastes, corporate recalcitrance and a long history of operational failures. All the "digital reminders" and paperwork checks that can be created cannot undue the basic issues of an incompetent, recalcitrant and lawless operation.

Ms. Carlin,

LCR's and Lafarge's responses ask you to ignore what your own eyes observed during your 9/15/2021 inspection and what the Agency has received in Lafarge's previous 40 NOV responses.

The Complainant requests that LCR's landfill license not be approved for 2022 and due to the decades-long history of accepting solid and unidentifiable wastes, *the entire facility be closed and capped according to MSW Subtitle D standards.*

Sincerely,  
  
Mark F. Schmidt, CPG, Complainant