

DEQ-AQD

JUN 27 2019

SAGINAW BAY

May 24, 2019

Mr. Matthew R. Karl
Saginaw Bay District Office
Michigan Department of Environment EGLE Great Lakes & Energy (EGLE)
Air Quality Division (AQD)
401 Ketchum St., Suite B
Bay City, MI 48708

*Received 6/27/19
Reviewed 6/27/19 MK*

Re: NOV for Brent Run Landfill
Brent Run Landfill (ROP: MI-ROP-N5987-2015), Montrose, MI

Dear Mr. Karl:

Brent Run Landfill (BRL) submits this follow-up written response to the EGLE's Violation Notice (VN) dated January 2, 2019. According to the VN, EGLE AQD staff noted the alleged violations during their review of records obtained as a result of an inspection of the facility completed on December 3rd, 2018. Based on this review, EGLE AQD staff noted the following:

1. Violation of 40 CFR 61.154(e)(1)(iii): Failure to maintain a waste shipment record with the quantity of asbestos containing waste material in cubic meters (cubic yards).
2. Violation of 40 CFR 61.154(e)(3): Failure to reconcile the discrepancy between the quantity of waste on the waste shipment records and the quantity received.

The EGLE's violation letter noted the following: "on the above Asbestos Disposal Manifest, it was noted that the space for the estimate cubic yards of waste (number of bags divided by seven plus other containers) was left blank. If this calculation was performed, the amount would have been approximately 14 cubic yards (-378 cubic feet). Under the transporter 2 certification, the estimated amount was 20 cubic yards (540 cubic feet). The landfill certification section was left blank but was signed by the landfill representative on December 7, 2018."

Brent Run Landfill believes that the above observations do not constitute violations of the applicable legal requirements cited for the following reason:

- 1) The type of waste received was a Category I non-friable asbestos-containing material (ACM) in the form of floor tiles which, by definition and according to 40 CFR 61.150(a)(5) and (b)(3), the requirements of paragraphs (a) and (b) of this section do not apply.
 - a) *“Category I nonfriable asbestos-containing material (ACM) means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy”;*
 - b) *“Resilient floor covering means asbestos-containing floor tile, including asphalt and vinyl floor tile, and sheet vinyl floor covering containing more than 1 percent asbestos as determined using polarized light microscopy according to the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy”;*
 - c) *“Friable asbestos material means any material containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure”;*
 - d) *“Non-friable asbestos-containing material means any material containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy, that, when dry, cannot be crumbled, pulverized, or reduced to powder by hand pressure.”*
 - e) *Regulated asbestos-containing material (RACM) means (a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart”*

As such, it does not meet the definition of regulated asbestos-containing waste material (RACM) under 40 CFR 61.141 and is not subject to requirements for RACM. Therefore, BRL requests EGLE to rescind the VN.

If you have any questions regarding this request or require additional information, please contact me at (810) 639-3077.

Sincerely,

Brent Run Landfill

A handwritten signature in black ink, appearing to read "T. Church", written in a cursive style.

Tim Church

Enclosure: VN Dated January 2, 2019
Scale Receipt Dated December 7, 2019

cc: Michelle Luplow - EGLE (Electronically)
Brent Run Landfill Operating Record
Cornerstone Environmental (Electronically)