



State of Ohio Environmental Protection Agency

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CERTIFIED MAIL

June 16, 2010

Mr. Lorne Elbert
Elbert Building Company
155 Yorkshire Court
Elyria, Ohio 44035

**RE: LORNE ELBERT/ELBERT BUILDING COMPANY
OHD004176145
FINANCIAL ASSURANCE RECORDS REVIEW**

Dear Mr. Elbert:

On June 9, 2010, I conducted a financial assurance records review for the facility located at 447 Oberlin Road, Elyria, Lorain County, Ohio (Facility).

According to State of Ohio records, since at least 2005, you have failed to establish and maintain a cost estimate, financial assurance and liability coverage for closure of the Facility, in continuing violation of Ohio Administration Code (OAC) rules 3745-55-42, 3745-55-43 and 3745-55-47, as described in the State's March 18, 2005, *Amended Complaint for Permanent Injunctive Relief and Civil Penalties, State of Ohio, ex rel. Jim Petro, Attorney General of Ohio, Plaintiff, v. Lorne J. Elbert, Jr., dba Elbert Excavating and Wrecking, and Elbert Building Co., Inc. and Kasper Properties, Inc., Defendants., Lorain County Court of Common Pleas, Case No. 03CV136143.*

Included in the Complaint were counts for illegal hazardous waste storage (Count 6) and disposal (Count 7), failure to have and implement a closure plan (Count 8), and failure to establish financial assurance (Counts 11 and 12) and liability coverage (Count 10) for closure.

Subsequently, in accordance with a Ninth District Court of Appeals decision, on May 7, 2009, the Lorain County Court granted a summary judgement in favor of the State of Ohio. All counts cited above were included in the Ninth District's decision. Financial assurance was established under the Resource Conservation and Recovery Act (RCRA) to ensure a third party could complete closure if the owner/operator is unable or unwilling to do so and therefore protect public resources from having to be expended cleaning up sites.

You need to prepare and submit for Ohio EPA approval a closure plan for the Facility, prepare and submit a closure cost estimate, establish and maintain financial assurance for closure, and establish and maintain liability coverage for third-party claims for sudden and non-sudden hazardous waste releases, and you need to complete closure at the Facility.

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

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If you have any questions or concerns regarding this letter and its contents, please do not hesitate to contact me. I can be reached at (614) 644-2955 or John.Schierberl@epa.state.oh.us.

Sincerely,


John Schierberl

cc: Frank Zingales, DHWM, NEDO
James Carr, AGO, EES
Nicholas Bryan, AGO, EES
Barry Chapman, DSIWM, CO

Notice:

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with applicable regulations.