



State of Ohio Environmental Protection Agency

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April 25, 2007

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OHIO EPA

APR 25 2007

DIV. OF HAZARDOUS
WASTE MGT.

Mr. Loren Trick
Giddings & Lewis, Machine Tools LLC
142 Doty Street
Fond Du Lac, WI 54936-0590

**Re: Giddings and Lewis, Inc.
OHR 000 005 538 Cleveland, OH
Financial Assurance
Notice of Violation**

Dear Mr. Trick:

On April 19, 2007, I completed a review of the financial assurance documentation file for the Giddings and Lewis, Inc. (G&L) facility referenced above. I evaluated the facility for compliance with financial assurance and liability requirements set forth in Ohio Administrative Codes (OAC) rules 3745-66-42, 3745-66-43 and 3745-66-47.

On July 29, 2002, Ohio Environmental Protection Agency (Ohio EPA) received an Irrevocable Standby Letter of Credit (LOC) through Comerica Bank NA dated July 25, 2002 for the amount of \$600,000.00.

On September 17, 2002, Ohio EPA received a Standby Trust Agreement between Comerica and G&L.

On December 19, 2002, I found that G&L was in violation of OAC rule 3745-66-47, failure to provide liability coverage, and issued a Notice of Violation (NOV) and asked G&L to submit documentation of liability coverage.

On January 7, 2003, I received a Certificate of Insurance from Marsh USA, Inc. This certificate did not contain the wording required by OAC rule 3745-55-51(J). To date I have not received proper documentation of liability coverage.

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

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On June 16, 2005, you were issued a NOV letter finding you in violation of OAC rule 3745-66-47 for failing to have proper liability coverage.

On March 23, 2006, Ohio EPA received a notice of non-renewal from Comerica Bank for LOC No. 575826-01 that G&L used for financial assurance for closure.

On April 3, 2006, you were issued a NOV letter finding you in violation of OAC rule 3745-66-47(A) and 3745-55-51(J) for failing to have proper liability coverage and OAC rule 3745-66-42(B) failing to submit an updated closure cost estimate.

On July 14, 2006, Ohio EPA received Citibank, N.A. LOC No. 61650972 for \$259,000.00 for financial assurance for closure.

On October 26, 2006, you were issued a NOV letter finding you in violation of OAC rule 3745-66-47(A) and 3745-55-51(J) for failing to have proper liability coverage and OAC rule 3745-66-42(B) failing to submit an updated closure cost estimate and OAC rule 3745-55-51(D) incorrect wording of the LOC.

Upon review of the financial assurance documentation the following violations were found:

OAC rules 3745-66-47(A) and 3745-55-51(J): G&L has failed to submit documentation of liability coverage containing the wording required by OAC rule 3745-55-51(J) and remains in violation of OAC rule 3745-66-47(A).

OAC rule 3745-66-42(B): G&L has also failed to submit an updated closure cost estimate in violation of OAC rule 3745-66-42(B). The closure cost estimate must be updated annually for inflation.

OAC rule 3745-55-51(D): Citibank LOC No. 61650972 is not correctly worded. Specifically, the wording of the LOC uses: "120" in place of "One hundred and twenty"; "shall" replaces "will" in three locations; "to the best of our knowledge" replaces "certify"; "substantially equivalent" replaces "identical"; and paragraph 6 is missing the ending.



To abate these violations, please submit the following documentation:

- **Proper documentation of liability coverage;**
- **An updated closure cost estimate; and**
- **A properly worded LOC**

While we look forward to Giddings & Lewis's response, the Agency has continuing serious concerns with the company's failure to provide financial assurance for this closure. **We will continue considering all options available to the Agency to achieve compliance with the financial assurance regulations by Giddings & Lewis, including escalated enforcement action.**

If you have any questions, or need further clarification of any matter mentioned in this letter, please do not hesitate to call me at (614) 644-3067. I will be happy to assist you.

Sincerely,



Isaac B. Wilder
Compliance Assurance Section
Division of Hazardous Waste Management

c: D'Arcy J. Gravelle
Tammy McConnell, IT&TS, DHWM
Todd Surrena, DHWM NEDO

Giddings and Lewis, Inc.FRR.04.07.wpd
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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.

