OhioEPA

State of Ohio Environmental Protection Agency

Southeast District Office

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

June 17, 2009

SCIOTO COUNTY
M & J INDUSTRIES
DHWM/SEDO
OHD080960776

Mr. Raymond Balzer
708 Fairground Road
Lucasville, Ohio 45648

Mr. Tom Perazzo
HillStreet Capital
807 Elm Street
Cincinnati, Ohio 45202

Re: Third Notice of Violation
Abandoned materials at former M & J Industries, Lucasville

Gentlemen:

On February 9, 2009, Melody Stewart and I visited the former M & J Industries located at 832 Fairground Road, Lucasville, Ohio, to determine compliance with Ohio's hazardous waste laws as found in Chapter 3734 of the Ohio Revised Code (ORC) and Chapter 3745 of the Ohio Administrative Code (OAC). On March 16, 2009, we conducted a follow up site visit to further investigate the quantity and types of materials on-site.

I sent a Notice of Violation (NOV) letter to M & J Industries (i.e., Mr. Perazzo and Mr. Balzer) on February 27, 2009, specifying the violations we observed during the initial inspection and the 30-day time frame in which to respond. On March 20, 2009, Mr. Perazzo informed me by telephone that he had just received Ohio EPA's NOV letter. On May 5, 2009, a second NOV letter was sent to M & J Industries. On May 12, 2009, I received a faxed letter from Mr. Perazzo, stating that United Solutions Incorporated was coming to the site on May 12, 2009 to evaluate the material and that Ohio EPA would receive a report of the evaluation once it occurred. As of this date, M & J Industries has failed to provide the documentation requested by Ohio EPA in our February 27, 2009 NOV letter, and remains in violation of the following:

(1) OAC Rule 3745-52-11, Hazardous Waste Determination: Any person who generates a waste must determine if that waste is a hazardous waste, using the criteria set forth in OAC Chapter 3745-51.

M & J Industries closed its Lucasville facility in approximately March of 2007. As of the date of our visit March 16, 2009 site visit, drums and containers of materials still remained on-site at the closed facility. Since these materials have been abandoned, they are considered to be wastes[1].

[1] *OAC Rule 3745-51-02 defines a "waste" as any discarded material that is not excluded by paragraph (A) of OAC Rule 3745-51-04 or that is not excluded by variance granted under OAC Rules 3745-50-23 and 3745-50-24, including "abandoned" material as defined in OAC Rule 3745-51-02(B).*

All abandoned wastes left on site at the former M & J Industries site must be evaluated to determine if they are hazardous wastes. ***Documentation demonstrating that these wastes have been evaluated (i.e., laboratory analyses, etc.) must be submitted to this office for review.***

Once all wastes remaining on-site have been evaluated, any wastes that are determined to be hazardous must be properly managed in accordance with Ohio's hazardous waste laws, and treated or disposed by a permitted hazardous waste treatment, storage, and disposal (TSD) facility. ***Documentation demonstrating that these wastes have been properly disposed (i.e., manifests, etc.) must be submitted to this office for review.***

Please submit the above requested documentation to this office ***within 15 days*** of your receipt of this letter.

Please note that Ohio EPA considers these violations serious in nature. Your failure to respond to this and past Notices of Violations may result in referral of M & J Industries' violations to our Central Office Enforcement Section for consideration of escalated enforcement.

Should you have any questions regarding this letter, please contact me at 740-380-5237.

Sincerely,

Vicky D. German

Vicky D. German
Environmental Specialist
Division of Hazardous Waste Management
Ohio EPA, Southeast District Office

VDG/mlm

cc: Fred Snell, Ohio EPA, DSW-SEDO

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