

**Environmental
Protection Agency**

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

May 25, 2011

**GALLIA COUNTY
DYER BROTHERS LUMBER COMPANY
RCRA-LDF
OHD 079 438 081**

Dyer Brothers Lumber Company
Attn: Elmer Dyer
688 Blessing Road
Patriot, Ohio 45658

Ms. Linda Dyer
632 Blessing Road
Patriot, Ohio 45658

Dear Mr. Dyer and Ms. Dyer:

On May 19, 2011, I inspected the Dyer Brothers Lumber Company's facility in Patriot, Ohio (Parcel #008-001-808-00) to determine compliance with the Sentencing Order and Entry signed and journalized by the Gallia County Court of Common Pleas on May 7, 1996, and was modified on September 4, 1997. Ms., Dyer, this letter is also being sent to you because according to the Gallia County Auditor's office, you are the property owner of the parcel which is subject to the sentencing order. During the inspection, I observed the following violations of the deed restriction which is attached to the Order:

Restriction No. 1 [T]he property shall at all times remain secure from ingress and egress from all persons including the Grantors, except for authorized representatives of the United States, the State of Ohio, the County of Gallia, and persons authorized by them who shall have access to the property for conducting any activity authorized by federal, state, or local law;

During the May 19, 2011 inspection, the previously chained and locked gates of the USEPA erected fence were open in violation of the deed restriction. These gates were chained and locked by the State of Ohio and USEPA to ensure this restriction was maintained.

Restriction No. 2 [T]he property shall not be used for any purpose except for closure activities, which shall be conducted in accordance with Ohio Revised Code Chapter 3734, and the regulations adopted thereunder;

It is unclear why the gates were open. Tire tracks were observed on the property.

In addition, Dyer Brothers Lumber Company is in violation of the following paragraphs of the May 7, 1996 judgment (Order) and September 4, 1997 modification to that Order:

Order No.7 Defendants agree and were Ordered to provide each year on or before February 1st to the State of Ohio a certified accounting of their net worth including, but not limited to, an accounting of all assets and liabilities, savings, investments, trust funds, retirement accounts, gifts, securities, land holdings, equipment and vehicles.

Ohio EPA did not receive the required information from Mr. Elmer Dyer for the following years: 2008, 2009, 2010, and 2011.

Order No. 8 Defendants agree and were Ordered to provide each year on or before May 1st to the State of Ohio with certified copies of all tax returns which have been filed with the United States and all other States, including but not limited to the States of Ohio and West Virginia.

Ohio EPA did not receive the required information from Mr. Elmer Dyer for the following years: 2007, 2008, 2009, 2010, and 2011.

Order No.9 Defendants agree and are hereby Ordered to conduct monthly inspections of the facility for the purposes of ensuring that access to the facility is secure. Each monthly inspection shall be done no later than the fifth day of each month. Defendants shall complete the inspection checklist attached hereto as Attachment A during each inspection with a copy being submitted to the Court and the Ohio EPA on or before the fifteenth day of each month. If at any time during the inspection or otherwise, any Defendant discovers that the facility is not secure then the Court and the Ohio EPA shall be immediately notified.

The last monthly inspection checklist that Ohio EPA received was dated December 2005.

Order No. 10 Per the modified Order dated September 4, 1997, the Defendants agree and are hereby Ordered to continue making cash payments of \$50 per month into the Hazardous Waste clean-up fund. Defendants shall make these continued cash payments in accordance with the provisions of paragraph number 10 of this Order.

The last monthly payment that was received by the Dyer Brothers Lumber Company was February 2004.

Dyer Brothers Lumber Company must immediately take actions to return to compliance with the Sentencing Order and Entry signed and journalized by the Gallia County Court of Common Pleas on May 7, 1996 and the subsequent modification. Dyer Brothers Lumber Company must submit **within 30 days** copies of completed inspection logs, a copy of the certified accounting of net worth, certified copies of all tax returns that were filed, and begin paying the monthly installments.

If you have any questions regarding this letter, please call me at (740) 380-5256.

Sincerely,



Melody Stewart
District Representative
Division of Materials and Waste Management

MS/mim

Enclosures

Cc: Bruce McCoy, DMWM-CO
Harry Sarvis, DMWM-CO
Tim Kern, AGO
Trevor Irwin, SEDO-DERR

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 appropriate regulations.