



State of Ohio Environmental Protection Agency

Southeast District Office

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

May 3, 2009

RE: **MUSKINGUM COUNTY
FAC - JAMES BROTHERS C&DD FACILITY**

James Brothers, Inc.
c/o Daniel G. James
3000 Dillion School Drive
P.O. Box 1420
Zanesville, Ohio 43702-1420

Glen James & Sons, Inc.
c/o Daniel G. James
3000 Dillion School Drive
P.O. Box 1420
Zanesville, Ohio 43702-1420

Dear Mr. James:

On April 14, 2010, I conducted an inspection of the James Brothers Construction and Demolition Debris (C&DD) disposal facility, located at 3935 Boggs Road, Zanesville, Ohio. The purpose of my inspection was to determine your compliance with the Director's Final Findings and Orders (DFFOs), effective December 30, 2004. The following is a summary of observations made during my inspection:

1. Order #1 of the DFFOs states that effective immediately upon the effective date of these Orders, Respondents shall cease disposing of C&DD material in all unauthorized areas of waste placement. Based on my April 14, 2010, inspection, it did not appear that any additional C&DD material had been placed in unauthorized areas since the effective date of the DFFOs.

Therefore, at the time of my inspection, you appeared to be in compliance with Order #1.

2. Order #2 of the DFFOs states that effective immediately upon the effective date of these Orders, Respondents shall manage and dispose of leachate at the Facility in accordance with applicable regulations. Further, Respondents shall ensure that no leachate is discharging into waters of the state without authorization from Ohio EPA.

During my inspection, I observed a leachate outbreak at the northeast portion of your C&DD facility. As stated in numerous previous correspondence, OAC Rule 3745-400-01(V) defines leachate as liquid that has come in contact with or been released from construction and demolition debris. OAC Rule 3745-400-11(O)(1) through (O)(3) requires you to contain, manage and dispose of the leachate in accordance with applicable regulations, and repair the outbreak.

At the time of my inspection, leachate continued to emerge from an area previously used to dispose of C&DD. Since you are not containing, managing or disposing of the leachate in accordance with OAC Rule 3745-400-11(O)(1) through (O)(3), nor have you repaired the leachate outbreak, you are in violation of Order #2, as well as, OAC Rule 3745-400-11(O)(1) through (O)(3).

3. Order #3 of the DFFOs states that within seven (7) days after the effective date of these Orders, that is, by January 6, 2005, Respondents shall divert surface water from the active and inactive licensed disposal areas of the Facility.

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establish and obtain written approval of alternate financial assurance from Ohio EPA by June 5, 2007. Since you have not maintained compliance with all applicable financial assurance requirements, you are currently in violation of OAC Rule 3745-400-12(E)(5)(b)(I).

OAC Rule 3745-400-12(E)(7) states that the owner or operator shall file with the appropriate county recorder a plat of the facility and information describing the acreage, exact location, depth, volume, and nature of the placed debris. To date, Ohio EPA has no record of receiving from you information documenting your compliance with this OAC Rule. Therefore, you are currently in violation of OAC Rule 3745-400-12(E)(7).

OAC Rule 3745-400-12(E)(8) states that the owner or operator shall a notation on the deed to the facility property or on another instrument which is examined during title search, alerting in perpetuity any potential purchaser of the property that the land has been used as a construction and demolition debris facility. The notation shall include information describing the acreage, exact location, depth, volume, and nature of the placed debris. To date, Ohio EPA has no record of receiving from you information documenting your compliance with this OAC Rule. Therefore, you are currently in violation of OAC Rule 3745-400-12(E)(8).

The contents of this letter do not relieve you from your obligation to comply with other applicable requirements outlined in ORC Chapter 3734 and the rules promulgated thereunder, or their obligation to comply with other applicable State and Federal laws and regulations.

To date, I have not received a response to several of my previous letters to you. I am again requesting that you please respond to this letter, in writing, within 15 days and detail your intentions and actions taken to comply with the DFFOs and the above-cited violations of OAC Rule 3745-400-12. Should you have any questions, please contact me at (740) 380-5443.

Sincerely,



Trevor L. Irwin, RS
Environmental Specialist II
Division of Solid and Infectious Waste Management

TI/jg

cc: Muskingum County Health Commissioner
Matt Boyer, CO, DSIWM
Jeff Hurdley, Legal
John Cayton, AGO