



State of Ohio Environmental Protection Agency

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April 17, 2007

Ms. Brenda Abke
Global Environmental Health, Safety & Security
The Scotts Company LLC
14111 Scottslawn Road
Marysville, Ohio 43041

Re: **The Scotts Company LLC**
Financial Assurance
OHD 990 834 483

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COA ext.*

Dear Ms. Abke:

On February 28, 2007, the Ohio Environmental Protection Agency (EPA) conducted a financial record review of the Scotts Company LLC (Scotts) facility in Marysville, Ohio. I evaluated the facility for compliance with post-closure care and corrective action financial assurance requirements as set forth in Ohio Administrative Code (OAC) rules 3745-66-44, 3745-45 and 3745-55-45 and 3745-54-101(B) and (C).

Ohio EPA received the Scotts financial test in June 2006. In a September 13, 2006 letter to you, I indicated that the Scotts 2006 financial test submittal was late. And the 2007 financial test submittal must be submitted by March 30, 2007. Unfortunately, the information I gave you was in error, because the 2006 financial test submittal revealed that the fiscal year for Scotts ends September 30. Therefore, Scotts financial test submittal was due December 30, 2006 or 90 days after the close of Scott's fiscal year not March 30, 2007.

In a letter dated March 6, 2007, I requested Scotts **submit updated financial assurance documentation**. I further noted that if I did not receive **financial assurance documentation before March 30, 2007, Scotts would be in violation of OAC rules 3745-66-44, 3745-66-45 and 3745-54-101(B) and (C)**.

Scotts submitted financial assurance documentation in the form of a financial test dated March 28, 2007. The financial test was sufficient to meet financial assurance requirements as of October 1, 2005 through September 30, 2006. It

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

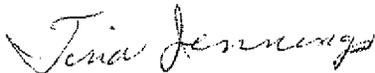
was indicated that due to a significant change in the Scotts debt position that occurred in February 2007, Scotts tangible net worth is no longer greater than 10 million dollars. Therefore, Scotts can not meet the requirements of the financial test. Currently, Scotts does not have alternative financial assurance established, and is in violation of OAC rules 3745-55-44 and 3745-55-45 and 3745-54-101(B) and (C).

To abate the above violation, Scotts must submit an alternate financial assurance mechanism complying with the applicable regulations.

Ohio EPA has serious concerns with Scotts' lack of financial assurance, and is considering all options available to the Agency to achieve compliance with the financial assurance regulations, including escalated enforcement action.

If you have any questions about this matter do not hesitate to contact me at (614) 644-2951.

Sincerely,



Tina Jennings
Compliance Assurance Section
Division of Hazardous Waste Management

c: Tammy McConnell, RIS, DHWM
Chris Bulinski, CDO

Scotts Company LLC.07.wpd
TJ/sl

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.