



State of Ohio Environmental Protection Agency

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**MAILING ADDRESS:**

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Columbus, OH 43216-1049

September 23, 2009

Ms. Brenda Abke  
Director, Corporate EHS  
The Scotts Company LLC  
14111 Scottslawn Road  
Marysville, Ohio 43041

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

Dear Ms. Abke,

On September 22, 2009, Ohio EPA's Division of Hazardous Waste Management (DHWM) completed a financial assurance records review for The Scotts Company's Marysville facility. DHWM evaluated Scotts for compliance with Post-Closure and Corrective Action financial assurance requirements contained in Ohio Administrative Code rules 3745-55-44, 3745-55-45, 3745-55-51 and 3745-54-101.

**Cost Estimates:**

By letter to Ohio EPA dated August 17, 2009, Scotts submitted documentation demonstrating a reduced cost estimate for the facility. The cumulative facility financial assurance cost estimate is \$4,250,307.00. The documentation was broken down to units in post-closure care and those in Corrective Action. Often those two terms are used interchangeably. From review of facility records and talking to the DHWM Central District Office, I believe the only unit truly in post-closure and subject to OAC rules 3745-55-44 and 3745-55-45 is Pond 1, cost estimate \$59,400.00. The remaining units are being addressed under RCRA Corrective Action and OAC rule 3745-54-101, including Landfills 1-5, Field Broadcast Areas 1 and 2, Ponds 2, 3 and 6, and Crosses Run, with a collective cost estimate of \$4,190,907.00.

**Financial Assurance**

By letter dated ~~September 21, 2009~~ Scotts submitted to DHWM letter of credit (LoC) No. TPTS-522635, credit value \$4,250,307.00, issued through JP Morgan Chase Bank N.A., detailed cost estimates for each unit and an amendment to the standby trust agreement. The effective dates of the new LoC are September 9, 2009, through August

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

Ms. Brenda Abke  
The Scotts Company  
Page 2 of 2

27, 2010. Scotts continues to use a May 21, 2001, standby trust agreement, most recently submitted to Ohio EPA by letter dated April 10, 2008.

**Liability:**

Scotts has no units actively undergoing closure, and no units subject to the liability coverage requirements of OAC rule 3745-55-47.

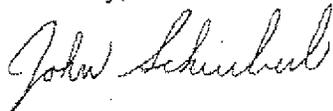
**Outstanding 2007 Violations:**

Following a review of Scotts' financial assurance records for the Marysville facility, by letter dated April 17, 2007, DHWM notified Scotts that due to changes in its financial position it no longer met certain requirements for a financial test (under OAC rule 3745-55-45), and was in violation of OAC rules 3745-55-44, 3745-55-45 and 3745-54-101. From August 6 through August 30, 2007, Scotts submitted to DHWM alternate financial assurance in the form of a letter of credit. Following review of the letter of credit submittal, by letter dated February 25, 2008, DHWM did not cite additional violations, but apparently neglected to notify Scotts that it had abated the violations listed in DHWM's April 17, 2007 letter.

From reviewing the 2007 financial assurance records for the Scotts Marysville facility, the violations of OAC rules 3745-66-45, 3745-55-44, 3745-55-45 and 3745-54-101 were abated with Scotts' ~~August 30, 2007~~ submittal. Based on review of submittals and related communications detailed in this letter, it appears Scotts meets the hazardous waste financial assurance requirements of the OAC.

If you have any related questions or comments please feel free to contact me at (614) 644-2955 or [john.schierberl@epa.state.oh.us](mailto:john.schierberl@epa.state.oh.us).

Sincerely,



John Schierberl  
Compliance Assurance Section  
Division of Hazardous Waste Management

ec: Chris Bulinski, CDO, DHWM

JS:jam

**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.