

To: Floyd County Board of Commissioners  
From: Don Lopp, Director of Operations and County Planning  
Date: September 14, 2018  
RE: Fly Ash Removal (Cinders) NA Impound Lot and Heitkemper Farm

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Please see below a summary of the actions taken, cost associated with the removal, and remaining items regarding the County's Remediation Work Plans for the New Albany Impound Lot (Harrison property) and Heitkemper Farm.

**County Activities:**

November 2016 – Contacted IDEM in reference to complaint filed on August 8, 2016  
December 2016-February 2017 – Met with property owners regarding issue and discussion of options  
March-April 18, 2017 – Met with environmental firm regarding testing sites and environmental testing took place  
June 5, 2017 – Reports of testing submitted to IDEM for review and comment  
September 20, 2017 – Commissioners moved forward with removal at property owners' request  
November 4, 2017 – Environmental firm requested IDEM opinion on re-use as anti-skid for roads  
November 14, 2017 – IDEM stated it could not be re-used for roads and must be disposed  
December 18, 2017 – IDEM response to remaining on-site for farm per closure process; owner had already requested removal as suitable option  
January 9, 2018 – Remediation Plans submitted to IDEM for approval  
February 20, 2018 – IDEM approves plan  
May 9 –August 6, 2018 – County removes 5,014 tons of material at Heitkemper site and restores property per agreement  
August 27 – September 24, 2018 – County removes 5,740 tons of material at NA Impound Lot  
September 11, 2018 – County submitted Final Report for Heitkemper  
October 15, 2018 – IDEM letter stating Final Report satisfactory Heitkemper  
December 4, 2018 – IDEM anticipated letter stating Final Report for NA Impound Lot within two weeks

**County Expenditures: Remediation Line Item**

- Waste Management - \$107,613 (Disposal Cinders)
- Redden Trucking - \$71,335 (Trucking Services)
- JTL - \$15,918 (Engineering Services)
- Irving Materials - \$10,442 (Material for Parking)
- Smith Creek - \$5,850 (Freight Charges for free material)
- MM Construction - \$4,800 (Soil)
- Misc. Vendors for erosion control items, etc.... - \$1,064.

**Remaining Items:**

The County has received from IDEM letter dated October 15, 2018 stating that it has meet the elements of the submitted work plan for remediation of the Heitkemper Farm site.

The County submitted its final report to IDEM dated November 9, 2018 regarding the remediation activities associated with the work plan approved for the Impound Lot site. The County is waiting on IDEM response to report.

Sincerely

FLOYD COUNTY, INDIANA  
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Don Lopp  
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Floyd County, IN

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June 2, 2009

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Charles P. Grady, Section Chief  
Agricultural and Solid Waste Compliance Section  
Office of Land Quality  
Indiana Department of Environmental Management  
100 N. Senate Avenue  
Indianapolis, IN 46204

Chester V. Lorch  
(1900 - 1972)  
Frank E. Lorch, Jr.  
(1905 - 1951)  
Basil H. Lorch, Jr.  
(1925 - 1997)  
Herbert F. Naville  
(Retired)

RE: May 4, 2009 Violation Letter, 17107 State Road 111, Floyd County  
(correct address is 1706 State Road 111)

William C. Moyer\*  
Michael G. Naville  
George W. Gesenhues, Jr.  
Linda B. Lorch  
Robert P. Hamilton  
Timothy J. Naville\*  
Elsa Garcia Reger  
Sally A. Thomas  
Cary J. Hurst  
Gregory M. Reger\*  
Matthew W. Lorch\*  
D. Keith Pulliam\*  
Stephen T. Naville

Dear Mr. Grady:

Please be advised that Lorch & Naville, LLC represents C.C.E., Inc. The principal of C.C.E. is Mr. Jeff Eastridge. C.C.E. is currently performing work on behalf of the City of New Albany to create the tow-in lot (the "Project") on the property in question that is owned by Ms. Pat Harrison. I am writing to confirm our various discussions with representatives of IDEM subsequent to your May 4 letter and to advise you of my client's intent to proceed with construction of the Project on the premises utilizing coal ash as a road base.

The violation letter refers to an alleged violation of 329 IAC 10-4-2, which provides: "No person shall cause or allow the storage, containment, processing, or disposal of solid waste in a manner which creates a threat to human health or the environment, including the creating of a fire hazard, vector attraction, air or water pollution, or other contamination." The solid waste referred to in Mr. Schroeder's investigation was coal bottom ash. The comments included in the report of open dump inspection directed Mr. Eastridge to either collect and haul all coal ash to a State-approved solid waste disposal facility or obtain a beneficial re-use permit from IDEM in order to utilize that type of material.

329 IAC 10-2-174 defines "solid waste" as including ash residue. However, further investigation reveals that 329 IAC 10-3-1 provides that solid waste management activities involving the use and disposal of coal waste as exempted under IC 13-19-3-3 are not subject to provisions of Article 10, and specifically 329 IAC 10-4-2, which prohibits open dumping of solid waste. Indiana Code Sec. 13-19-3-3(2) provides an

\*Also admitted in KY

Of Counsel  
Barry N. Bitzegaio

Charles P. Grady, Section Chief  
Agricultural and Solid Waste Compliance Section  
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Indiana Department of Environmental Management  
June 2, 2009  
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exclusion for the use of coal combustion products, including coal ash, if the use is as a base in road construction. As outlined in our discussions with Mr. Schroeder and with Ms. Tracy Barnes, the City of New Albany desires to use the premises as a tow-in lot. Mr. Eastridge intends to transport additional cinders (coal ash) to the lot with the intent of utilizing the cinders as a base. His intent is to compact the cinders and cover them with gravel. The cinders will be placed at a maximum depth of 12 inches and then compacted with a compaction roller. He will continue that process until he has a final sub grade. After that he will bring in a dense sub grade aggregate and compact it to a depth of four to six inches to get your finished grade excluding asphalt or concrete overlay. Once that is complete he will cover the cinders with gravel, concrete or asphalt in accordance with the Indiana Code and Administrative Code.

Ms. Barnes has indicated that a beneficial re-use approval letter will not be necessary as the use is a permitted exception and therefore not a violation of open dumping prohibitions. At this point, my client intends to move forward with completion of the Project and expects that it will be completed within 60 days of this letter. We will coordinate a follow-up inspection with Mr. Schroeder to properly document that gravel has been properly utilized to cover the coal ash prior to the use of the space as a tow-in lot.

I have purposely tried to provide a copy of this correspondence to those individuals who have involvement or are stakeholders of the Project. I have enclosed copies of 329 IAC 10-3-1 and Indiana Code Sec. 13-19-3-3 with highlighting on the relevant code sections primarily for the benefit of those who are receiving a copy of this correspondence and not IDEM.

To reiterate, we consider your violation letter to be null and void as we have been subsequently advised by representatives of IDEM and through our own independent investigation that use of coal ash as a road base in the Project is a permitted exception from 329 IAC 10-4-2. We intend to proceed accordingly. Should you have any questions or problems, please contact me upon receipt of this letter.

Sincerely,

D. Keith Pulliam

DKP:dt

Charles P. Grady, Section Chief  
Agricultural and Solid Waste Compliance Section  
Office of Land Quality  
Indiana Department of Environmental Management  
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Enclosures

Cc: Client  
Ron Quackenbush, Floyd County Highway Department  
Pat Harrison  
Dennis Smith, New Albany Police Department  
Steve Bush, Floyd County Commissioner  
Rick Schroeder, IDEM  
Tracy Barnes, IDEM  
Rosemary Cantwell, IDEM  
Floyd County Health Department  
Floyd County Sewer Wastewater Management District

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