

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Materials Management, Region 8
6274 East Avon-Lima Road, Avon, NY 14414-9516
P: (585) 226-5411 | F: (585) 226-2909
www.dec.ny.gov

By Certified Mail, Return Receipt Requested

August 16, 2022

Phil Dickson
Leo Dickson and Sons, Inc.
5151 Bonny Hill Road
Bath, New York 14810

Re: **Notice of Violation: Leo Dickson and Sons, Inc.**
Title 6 of New York Codes, Rules, and Regulations Part 360 Series
Permit for Solid Waste Management Facilities, DEC ID 8-4699-
00012/00001
Multiple Townships, Steuben County

Dear Mr. Dickson,

This letter serves to provide you with a Notice of Violation (“NOV”) setting forth the specific actions that constitute the violation(s) involving Article 27, Title 7 of the Environmental Conservation Law (“ECL”). As the owner or operator of a permitted solid waste management facility, you are required to comply with the requirements contained in the solid waste management (“SWM”) permit referenced above and applicable 6 NYCRR Part 360/361 regulations. This NOV is issued for the following violations:

- The facility failed to submit a timely weekly spread report to the New York State Department of Environmental Conservation (“Department”) as required by Special Condition 23 of the SWM permit for the following weeks: August 8, 2022; August 1, 2022; July 25, 2022; July 18, 2022; July 11, 2022; July 5, 2022; June 27, 2022; June 21, 2022; June 13, 2022; May 31, 2022; May 23, 2022; May 16, 2022; May 2, 2022; April 25, 2022; April 22, 2022; March 28, 2022; March 21, 2022; February 28, 2022; February 22, 2022; February 14, 2022; February 7, 2022; January 10, 2022;
- The facility failed to pay the Department in full the required 2022 on-site monitor fee for the on-site environmental monitoring services provided by the Department.
- On April 19, and May 3, 2022, the facility received biosolids from “Groton” as documented in the weekly spread report submitted by Leo Dickson and Sons, Inc. to the Department, via email, on July 14, 2022. Groton is not listed as an

approved waste source on Attachment A of the facility's SWM permit #8-4699-00012/00001.

The following SWM permit conditions are found to be in violation:

- SWM Permit DEC ID 88-4699-00012/00001 Special Condition 23: All monitoring, recordkeeping, and reporting shall be in conformance with the requirements of 6NYCRR Part 361-2.5.

In addition, each week, a report documenting the previous week's land application activities must be prepared and sent electronically via email to the NYSDEC Region 8 Division of Materials Management Engineer and designated Region 8 DMM staff at greg.maclean@dec.ny.gov, or at any future email addresses provided for the permittee's use by the Department. The report must be received by 4:45 pm on Monday of the following week of the activities described. If Monday is a legal holiday, the report must be received by 4:45 pm on Tuesday. Copies of the reports must be maintained at the facility office and must be available for review by Department staff upon request during normal business hours.

- SWM Permit DEC ID 88-4699-00012/00001 Special Condition 27 (iii)(g): Failure to make the required payments shall be a violation of this Permit. The State reserves all rights to take appropriate action to enforce the above payment provisions.
- SWM Permit DEC ID 88-4699-00012/00001 Special Condition 1: All activities authorized by this permit must be in strict conformance with the permit application, plans and materials prepared by LaBella Associated P.C. and Agricultural Engineering Services, PLLC (AES), Western New York Crop Management, and Dickson Environmental on various dates (see conditions #26 for detailed list and descriptions of these documents)

The following actions are required by the Department:

1. Weekly reports documenting the previous week's land application activity must be submitted to the Department by 4:45 pm on Monday of the following week, unless Monday is a legal holiday. The report must be sent to the Department's Region 8 Division of Materials Management Engineer and designated Region 8 DMM staff at greg.maclean@dec.ny.gov, mackenzie.osypian@dec.ny.gov and jason.boliver@dec.ny.gov. A weekly spread report must be submitted to the Department even if no spreading activities occurred.
2. Within 15 days of the date of this letter the on-site monitoring fee must be paid in full to the Department.
3. Importing waste from Groton must cease and desist immediately. Within 30 days of the date of this letter:
 - a. All imported waste from Groton still stored at the facility must be removed and sent to a permitted part 360 disposal facility that is allowed

to accept this material and copies of disposal receipts submitted to the Department.

- b. A description of the Groton waste source, any representative analytical data available, a summary table of the data, sampling protocols, and a description of the process used to reduce pathogens must be submitted to the Department.
- c. All fields where material imported from Groton was land applied must undergo sampling.
 - i. The sampling must be completed by an environmental professional.
 - ii. A minimum of three soil samples must be collected from each field.
 - iii. Each soil sample must be a composite of a minimum of 10 randomly selected sample locations.
 - iv. The sampling depth must be consistent with the depth of biosolid incorporation.
 - v. Soil samples must be analyzed for pH, arsenic, cadmium, chromium (total), copper, lead, mercury, molybdenum, nickel, selenium, zinc, total Kjeldahl Nitrogen, Nitrate, total phosphorus, total potassium and fecal coliform or salmonella sp. bacteria
 - vi. All analyses must be performed by a laboratory certified by the Department of Health for that type of analysis, using methods acceptable to the Department.
 - vii. A final report must be submitted to the Department that includes sampling protocols, a summary table of the analytical results including the mean and range of the results found, copies of the original laboratory results, and a summary of the findings.

Please take further notice that the Department is reviewing its options regarding appropriate enforcement actions, including assessment of penalties, fines, and injunctive relief for the violations which have already occurred or are ongoing. Leo Dickson and Sons, Inc. must take immediate action to ensure that all ongoing violations cease immediately. Failure to comply with this notice by not immediately correcting the violations could result in a larger penalty than would otherwise be assessed, should you be adjudged in violation of the law. A violation of 6 NYCRR Part 360 can result in a penalty of up to \$7,500 per violation and an additional penalty of up to \$1,500 per day that the violation continues, as specified in ECL §71-2703.

Please contact me at (585) 226-5409 or mackenzie.osypian@dec.ny.gov if you should have any questions.

Sincerely,

Mackenzie Osypian

Mackenzie Osypian, P.E.
Environmental Engineer

ec: G. MacLean; J. Boliver; - R8 DMM
P. Ellis – Casella
L. Stevens; J. O’Connell – CO DMM