



December 7, 2009

**REGISTERED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. John Delvac, Director of Operations  
Perry County Associates, LLC  
Arrowhead Landfill  
Route 2, Box 110A  
Uniontown, Alabama 36786

Mr. John Porter, Executive Vice President  
Perry County Associates, LLC  
3280 Peachtree Road NW  
Suite 1400  
Atlanta, Georgia 30305

**Re: Notice of Intent to File Suit for Violation of Criteria for Municipal Solid Waste Landfills under the Solid Waste Disposal Act**

Dear Messrs. Delvac and Porter:

Pursuant to the Solid Waste Disposal Act § 7002, 42 U.S.C. § 6972, and 40 C.F.R. Part 254, you are hereby notified that after the expiration of 60 days following service of this notice, Maurice Johnson, who resides at Route 2, Box 125, Uniontown, Alabama; Bennie Carter, who resides at Route 2, Box 113A, Uniontown, Alabama; Della Dial, who resides at Route 2, Box 111, Uniontown, Alabama; Jerry Lee and Cynthia Thomas Holmes, who reside at Route 2, Box 113B, Uniontown, Alabama; Ruby Lee Holmes, who resides at Route 2, Box 114A, Uniontown, Alabama; Rev. James R. and Ella White Murdock, who reside at Route 2, Box 122C, Uniontown, Alabama; Dorothy Tucker, who resides at Route 2, Box 114AA, Uniontown, Alabama, intend to file suit against Perry County Associates, LLC for the violations described below.

**Violation of Criteria for Municipal Solid Waste Landfills**

Pursuant to the Solid Waste Disposal Act § 4004(a), 42 U.S.C. § 6944(a), EPA promulgated criteria for the operation of municipal solid waste landfills. Among these criteria is the following:

Owners or operators of all MSWLFs must ensure that the units not violate any applicable requirements developed under a State Implementation Plan (SIP) approved or promulgated by the Administrator pursuant to section 110 of the Clean Air Act, as amended.

40 C.F.R. § 258.24(a). Failure to comply with this criterion makes a landfill a prohibited “open dump.” Solid Waste Disposal Act § 4005(a), 42 U.S.C. § 6945(a), and 40 C.F.R. § 258.1(g) and (h).

Pursuant to Clean Air Act § 110, 42 U.S.C. § 7410, the State of Alabama adopted and EPA approved, Ala. Admin. Code R. 335-3-1-.02 and 335-3-1-.08 as part of the State Implementation Plan for Alabama. Ala. Admin. Code R. 335-3-1-.08 provides:

No person shall permit or cause air pollution, as defined in Rule 335-3-1-.02(1)(e) of this Chapter by the discharge of any air contaminant for which no ambient air quality standards have been set under Rule 335-3-1-.03(1).

Ala. Admin. Code R. 335-3-1-.08. "Air Pollution" shall mean the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as are, or tend to be, injurious to human health or welfare, animal or plant life, or property, or would interfere with the enjoyment of life or property throughout the State and in such territories of the State as shall be affected thereby. Ala. Admin. Code R. 335-3-1-.02(1)(e). "Air Contaminant" shall mean any solid, liquid, or gaseous matter, any odor, or any combination thereof, from whatever source. Ala. Admin. Code R. 335-3-1-.02(1)(d). "Odor" shall mean smells or aromas which are unpleasant to persons or which tend to lessen human food and water intake, interfere with sleep, upset appetite, produce irritation of the upper respiratory tract, or cause symptoms or nausea, or which by their inherent chemical or physical nature or method or processing are, or may be, detrimental or dangerous to health. Odor and smell are used interchangeably herein. Ala. Admin. Code R. 335-3-1-.02(1)(ss).

Since July 2009, Perry County Associates, LLC has been operating the Perry County Associates, LLC Landfill in such manner as to permit or cause the presence of one or more contaminants, including odors, in the outdoor atmosphere which are injurious to human health and welfare, interfere with the enjoyment of life and property, are unpleasant to persons, tend to upset appetite, lessen food intake, interfere with sleep, produce irritation of the upper respiratory tract, and cause dizziness, headache, nausea and vomiting. Accordingly, Perry County Associates, LLC is permitting or causing air pollution in violation of the State Implementation Plan for Alabama and in violation of 40 C.F.R. § 258.24(a). Thus, Perry County Associates, LLC is operating a prohibited "open dump" in violation of the Solid Waste Disposal Act.

Civil penalties of up to \$37,500 per violation per day may be assessed by the court. Suit may be avoided if these violations have been permanently abated before the expiration of 60 days following service of this notice. Please advise the undersigned of any measures that you may undertake which you contend have permanently abated these violations before suit is filed.

Sincerely,



David A. Ludder

cc:

**CERTIFIED MAIL**  
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Hon. Lisa P. Jackson, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

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Hon. A. Stanley Meiberg, Acting Regional Administrator  
U.S. Environmental Protection Agency-Region 4  
Sam Nunn Atlanta Federal Center  
61 Forsyth Street, SW  
Atlanta, Georgia 30303-3104

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Hon. Onis "Trey" Glenn, Director  
Alabama Department of Environmental Management  
P.O. Box 301463  
Montgomery, Alabama 36130-1463

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The Corporation Company  
Registered Agent for Perry County Associates, LLC  
2000 Interstate Park Drive, Suite 204  
Montgomery, Alabama 36109