

ALABAMA DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT

IN THE MATTER OF
JAY'S FURNITURE REHAB
GUNTERSVILLE, ALABAMA

ORDER NO. 92-143-HW

FINDINGS

Pursuant to the provisions of the Alabama Environmental Management Act, Code of Alabama 1975, §§ 22-22A-1 through 22-22A-1616 (1990 Rplc. Vol. and 1991 Supp.) and the Alabama Hazardous Wastes Management and Minimization Act of 1978, Code of Alabama 1975, §§ 22-30-1 through 22-30-20 (1990 Rplc. Vol. and 1991 Supp.), the Alabama Department of Environmental Management ("the Department") makes the following FINDINGS:

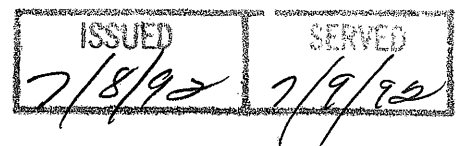
1. Jay's Furniture Rehab (Jay's), located at 2415 Lusk Street, Guntersville, Alabama, is a corporation engaged in the furniture refinishing business.

2. ADEM Admin. Code R. 335-14-3-.01(2) requires a person who generates a solid waste to determine, according to specific methods, if said solid waste is a hazardous waste.

3. During the course of its refinishing activities, Jay's generates a solvent contaminated sludge.

4. The aforementioned sludge is a solid waste, as defined by ADEM Admin. Code R. 335-14-2-.01(2).

5. During an October 31, 1991, inspection of Jay's facility, ADEM personnel observed four, unmarked, open drums of sludge generated by Jay's refinishing activities.



6. During the October 31, 1991, inspection, Kevin Lee, General Manager of Jay's, indicated that Jay's had not made a hazardous waste determination on the sludge.

7. By certified mail on December 6, 1991, ADEM issued a Notice of Violation (NOV) to Jay's that indicated the company had violated, inter alia, Rule 335-14-3-.01(2), which requires a person generating a solid waste to determine if it is a hazardous waste.

8. The NOV instructed Jay's to submit documentation within 30 days of receipt of the NOV demonstrating that the violations listed in the NOV had been corrected.

9. At the time this Order was issued, Jay's had not submitted the required documentation or otherwise communicated with ADEM concerning the NOV.

10. The solid waste sludge generated by Jay's refinishing activities is a listed hazardous waste.

11. ADEM Admin. Code R. 335-14-3-.02(a) requires a hazardous waste generator who transports or offers for transport his hazardous waste off-site for treatment, storage, or disposal to prepare a manifest (EPA form 8700-22) for said waste.

12. During the October 31, 1991, inspection, Kevin Lee informed the ADEM inspector that Jay's regularly disposed of its sludge in local solid waste dumpsters without preparing a manifest for said wastes.

13. ADEM Admin. Code R. 335-14-3-.01(3)(a) requires hazardous waste generators to apply for and receive an EPA

identification number prior to treating, storing, disposing, transporting, or offering for transport any hazardous waste.

14. Jay's does not have an EPA identification number.

15. ADEM Admin. Code R. 335-14-3-.01(3)(c) prohibits a hazardous waste generator from disposing of his hazardous waste in a disposal facility that does not have a permit or interim status allowing said disposal.

16. During the October 31, 1991, inspection, Kevin Lee informed the ADEM inspector that the sludge generated by Jay's was regularly disposed of in a municipal landfill that did not have a permit or interim status authorizing the acceptance of hazardous waste.

17. ADEM Admin. Code R. 335-14-8-.01(1) requires all owners of hazardous waste treatment, storage and disposal facilities to apply for and obtain a permit prior to the construction of any treatment, storage, or disposal facility and prior to the treatment, storage, or disposal of any hazardous waste.

18. Jay's has both treated and stored hazardous waste without a permit.

19. On June 4, 1992, the Department mailed a draft Order to Jay's and offered to schedule an informal conference to discuss the Order. Further, Jay's was advised that it could make a written response to the Order.

20. To date, Jay's has not responded to the June 4th proposed Order and did not request an informal conference.

ORDER

Based on the foregoing FINDINGS and pursuant to Code of Alabama 1975, §§ 22-22A-5(10), 22-22A-5(18), 22-30-20 and 22-30-19(a) and (b) (1990 Rplc. Vol. and 1991 Supp.), it is hereby ORDERED:

A. That immediately upon receipt of this Order, Jay's shall provide a hazardous waste determination on each waste stream generated and an estimate (including the basis for the estimate) of the total amount of hazardous waste generated per month at the facility.

B. That immediately upon receipt of this Order, Jay's shall comply with all applicable requirements of Chapters 3 through 9 of Division 14 of ADEM's Administrative Code.

C. That within 30 days of receipt of this Order, Jay's shall submit to the Department a site assessment plan for the drum storage area. The plan shall be sufficiently broad in scope to ensure that the extent of any hazardous waste contamination in the drum storage area is accurately determined. This plan must be certified by an independent registered professional engineer licensed by the State of Alabama. Jay's shall make any changes to the plan required by the Department that are necessary to achieve the objective of the plan. Implementation of the plan shall begin immediately upon acceptance by the Department. The accepted plan must be completed within 30 days of the acceptance by the Department.

Jay's shall submit the results of the implementation of the plan to the Department within 15 days of completion of the implementation.

D. That in the event the site assessment determines that soil and/or groundwater contamination exists, Jay's shall submit, within 120 days of receipt of this Order, a complete and adequate closure plan and a contingent post-closure care plan prepared in accordance with ADEM Admin. Code R. 335-14-5-.07 for its drum storage area.

E. That, in the event the site assessment determines that soil and/or groundwater contamination exists, Jay's shall submit, within 120 days of receipt of this Order, a groundwater quality assessment plan that will determine the impact of contamination at the drum storage area upon the groundwater. Said plan shall be prepared in accordance with the requirements of ADEM Admin. Code R. 335-14-6-.06. Upon notice from the Department that said groundwater assessment plan must be implemented, Jay's shall immediately implement said plan and install and operate an adequate groundwater monitoring system in accordance with the requirements of ADEM Admin. Code R. 335-14-6-.06.

F. That within 180 days of the Department's approval of the closure plan required by paragraph D above, Jay's shall provide the Department with certification of closure of the drum storage area in accordance with the requirements of ADEM Admin. Code R. 335-14-5-.07(6). The certificate shall be

) signed by Jay's and by an independent registered professional engineer licensed to practice in the State of Alabama. In the event that either the Department or Jay's determines that clean closure cannot be achieved, Jay's shall submit a complete Part B permit application, including all applicable fees, to the Department within 180 days of such determination.

G. That immediately upon receipt of this Order, Jay's shall submit an EPA Form 8700-12 that accurately reflects the current generation of hazardous waste at the facility.

H. That immediately upon receipt of this Order, Jay's shall submit documentation that demonstrates or describes and verifies the actual disposition of the waste solvents that were to be picked up by Roy Lipscomb.

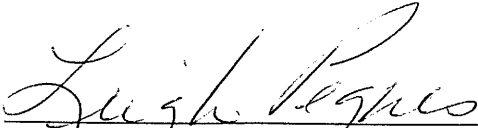
I. That immediately upon receipt of this Order, Jay's shall stop offering its hazardous waste to all unpermitted transporters and/or disposal facilities.

J. That within 30 days of receipt of this Order, Jay's shall pay to the Department a Thirty Five Thousand Dollar (\$35,000.00) civil penalty for the violations described herein.

K. That failure to comply fully with the terms and conditions of this Order shall constitute cause for the commencement of legal action for the recovery of civil penalties, criminal fines, or other appropriate relief by the Department against Jay's.

) L. That the issuance of this Order does not preclude the Department from seeking criminal fines or other appropriate relief against Jay's for the violations stated herein.

ORDERED and ISSUED this 8th day of July, 1992.



Leigh Pegues, Director
Alabama Department of
Environmental Management
1751 Cong. W. L. Dickinson Drive
Montgomery, Alabama 36130
(205) 271-7700

CERTIFICATE OF SERVICE

I, G. Keith Clark, hereby certify that I have served Administrative Order No. 92-143-HW upon Jay's Furniture Rehab by sending the same postage paid through the U.S. Mail as Certified Mail No. P 825 089 290, with instructions to forward and return receipt requested to:

Marvin Lee
Jay's Furniture Rehab
2415 Lusk Street
Guntersville, AL 35976

DONE this 8th day of July, 1992.



G. Keith Clark