



# INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We Protect Hoosiers and Our Environment.*

Southwest Regional Office • 114 South 7<sup>th</sup> Street • Petersburg, IN 47567-0128

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**Eric J. Holcomb**  
*Governor*

**Brian C. Rockensuess**  
*Commissioner*

June 27, 2024

## **VIA E-MAIL and USPS**

Shane Nicholas  
10351 Newport Road  
Bowling Green, Indiana 47833  
[ninthnic@yahoo.com](mailto:ninthnic@yahoo.com)

Brown and Son Building Contractor, LLC  
3979 North County Road 700 East  
Sullivan, Indiana 47882

Dear Mr. Nicholas and Brown and Son:

Re: **Violation Letter**  
10351 Newport Road  
Bowling Green, Owen

On June 13, 2024, a representative of the Indiana Department of Environmental Management, Office of Land Quality, conducted an inspection of the property, located at 10351 Newport Road, Bowling Green, Indiana. This inspection was conducted pursuant to IC 13-14-2-2. For your information, and in accordance with IC 13-14-5, a summary of the inspection is provided below:

Type of Inspection: Follow-Up **109038**

Results of Inspection: Violations were observed (see attached inspection report).

Please direct any response to this letter and any questions to Mr. Hayden Dayson, 812-582-8463 or [hdayson@idem.in.gov](mailto:hdayson@idem.in.gov). Thank you for your attention to this matter.

Sincerely,

Nicholas Carr, Director  
Southwest Regional Office

Enclosure

cc: Owen County Health Department [john.reeves@owencounty.in.gov](mailto:john.reeves@owencounty.in.gov)  
Owen County Solid Waste Management District [jenniferf@claycountyin.gov](mailto:jenniferf@claycountyin.gov)

**REPORT OF OPEN DUMP INSPECTION**

State Form 42033 (r2/2-00)

Indiana Department of Environmental Management  
 Solid Waste Compliance Section  
 Office of Land Quality  
 100 North Senate Avenue, Room N-1101  
 Indianapolis, Indiana 46204-2251

Inspector Name: Hayden Dayson

Inspector Phone: 812-582-8463

Inspection Date: 6/13/2024

Time In: 10:45 am

Time Out: 11:05 am

**GENERAL INFORMATION**

Name of registration or Tempo (RM): 109038	Location: 10351 Newport Road, Bowling Green, IN 47833	County: Owen
INX #: 000068497	Parcel ID #: 60-12-03-200-100.040-023	Parcel Acreage: 9.13

**PROPERTY OWNER(S)**

Name(s) of property owner(s) and/or Company: Shane and Kelly Nicholas	
Address (number, city, state, and zip code): 10351 Newport Road, Bowling Green	
Email Address: ninthic@yahoo.com	Telephone #: 1-317-605-8633

**RESPONSIBLE PARTY(IES)**

Name(s) of property owner(s) and/or Company: Brown and Son Building Contractor LLC	
Address (number, city, state, and zip code): 3979 North County Road 700 East, Sullivan, IN 47882	
Email Address: N/A	Telephone #: 812-699-9969

**ACREAGE**

<input type="checkbox"/>	020	Less Than ¼ Acre	<input type="checkbox"/>	021	Between ¼ Acre & 1 Acre	<input checked="" type="checkbox"/>	022	Greater than 1 Acre
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**SOLID WASTE OBSERVED**

<input type="checkbox"/>	001	Tires	<input type="checkbox"/>	002	PCB's	<input type="checkbox"/>	003	Household Waste
<input type="checkbox"/>	004	Asbestos	<input checked="" type="checkbox"/>	006	Construction/Demolition Waste	<input type="checkbox"/>	007	Bulky Waste
<input type="checkbox"/>	008	Other Waste						

**ACTIVE CONDITIONS**

<input type="checkbox"/>	015	Strong Odor	<input type="checkbox"/>	016	Waste Paper Dated Post Last Inspection	<input type="checkbox"/>	017	Vectors
<input type="checkbox"/>	018	Putrescible Waste	<input type="checkbox"/>	019	Other Evidence of Recent Dumping			

**PARAMETERS OBSERVED**

<input type="checkbox"/>	009	Evidence of Burning	<input type="checkbox"/>	010	Waste in Water/Wetland	<input type="checkbox"/>	011	Waste in Suspected Floodway
<input checked="" type="checkbox"/>	012	Residence within 600 feet of Waste	<input type="checkbox"/>	013	Access Unrestricted	<input type="checkbox"/>	014	Permission Given to Dump

**GENERAL INFORMATION**

<input checked="" type="checkbox"/>	023	Pictures Taken	<input type="checkbox"/>	038	Initial Inspection	<input checked="" type="checkbox"/>	039	Follow-Up Inspection
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**REFERRALS**

<input type="checkbox"/>	027	Air Management	<input type="checkbox"/>	028	Emergency Response	<input type="checkbox"/>	029	Water management
<input type="checkbox"/>	030	Enforcement	<input type="checkbox"/>	031	Hazardous Waste	<input type="checkbox"/>	032	Dept. of Natural Resources
<input type="checkbox"/>	034	Co. Health Dept./Solid Waste Mgmt District						

**COMPLIANCE ACTION NEEDED**

<input checked="" type="checkbox"/>	024	Remove waste to approved solid waste management facility	<input type="checkbox"/>	025	As specified below	<input type="checkbox"/>	026	No Action Needed (In Compliance)
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**Comments:**

On June 13, 2024, Solid Waste inspector, Hayden Dayson, conducted an inspection at 10351 Newport Road, Bowling Green, IN 47833. The inspection was a follow up to the initial inspection that took place on April 22, 2024. Mr. Shane Nicholas was not present for the inspection but gave the inspector permission to look at the area over the phone with help of his business manager for his onsite business. Mr. Nicholas also stated that the area had not changed due to soft wet ground.

It was observed that the same amount of drywall as previously observed, was still in the runoff ditch (Photos 1-2). The inspector also informed the manager at the business that Mr. Nicholas has only 30 more days to get that drywall out of the ditch, or this matter will be sent to IDEM'S Office of Land Enforcement.

The inspector then informed him that another follow-up will be taking place in 30 days, and the inspection concluded at this time.

**DESCRIPTION OF VIOLATIONS**

**IC 13-30-2-1 (1), (3), (4), (5):** A person may not allow the deposit of contaminants or solid waste upon the land or into the environment.

**329 IAC 10-4-2:** No person shall cause or allow the storage, contaminant, 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.

**329 IAC 10-4-3, 329 IAC 10-4-4:** Open dumps are prohibited and must be remediated.

*Violation Details: At the time of inspection, this inspector observed dumped drywall on the grounds of the property.*

**Required Action:** It is the responsibility of the property owner to ensure that all dumping is stopped immediately and that the solid waste is removed and disposed of properly at a state approved solid waste management facility. Failure to do so will result in continued noncompliance with the Indiana rules regarding open dumping and may result in a referral to IDEM's Office of Land Enforcement. Documentation of proper disposal must be provided to the IDEM Solid Waste Compliance Inspector.

Please note that Indiana's Air Pollution Control Rule 326 IAC 4-1 prohibits the open burning of this waste. Section 5 of this rule states, "Any person who allows the accumulation or existence of combustible material which constitutes or contributes to a fire causing air pollution shall not be excused from the responsibility thereof on the basis that the fire was set by vandals, accidental or an act of God." Any burning of this waste may subject you to legal action.

A follow-up inspection will be conducted in **30 days** from receipt of this report.

**Confidential Information**

In accordance with 329 IAC 6.1 (<http://www.in.gov/legislative/iac/T03290/A00061.PDF>) a person submitting information to the department for which confidential treatment is requested shall make a written claim of confidentiality at the time of submittal of the information. A person may request confidential treatment of information at the time the information is acquired through the actions of the department, such as inspections. The written claim for confidential treatment may be broad, but must be sufficiently clear to allow for accurate identification of the information claimed to be confidential. In accordance with 329 IAC 6.1-4-1(d), supporting information must be submitted to the commissioner within five (5) working days from the time the information claimed as confidential is acquired by the department. A person submitting a claim of confidentiality shall designate and segregate the information and the supporting information to which the claim applies in a manner that is sufficiently clear to allow the department to identify all confidential claim materials. Confidential information may include (but is not limited to) written or printed material, maps, charts, photographs, or samples (see

definition of information at 329 IAC 6.1-2-8). The undersigned Owner/Representative has alleged information acquired during this inspection  **does**  **does not** (check one) contain confidential information. A check in the “does” box is not a written claim for confidential treatment of information acquired during this inspection.

### Notice of Oral Report

In accordance with IC 13-14-5 an oral report of the inspection was provided to the undersigned Owner/Agent at the conclusion of the inspection. The oral report includes any specific matters discovered during the inspection that the IDEM representative believes may be a violation of a law or of a permit issued by the department. The report does not include matters not evident to the IDEM representative or any fact that indicates an intentional, a knowing, or a reckless violation.

Received by: Shane Nicholas Brown and Son Building Contractor LLC Owen County Health Department Owen County SWMD Nicholas Carr, IDEM SWRO Director	E-mail Address: <a href="mailto:ninthnnic@yahoo.com">ninthnnic@yahoo.com</a> <b>USPS</b> <a href="mailto:john.reeves@owencounty.in.gov">john.reeves@owencounty.in.gov</a> <a href="mailto:jenniferf@claycountyin.gov">jenniferf@claycountyin.gov</a> <a href="mailto:ncarr@idem.in.gov">ncarr@idem.in.gov</a>
Date Emailed by Inspector: Click here to enter a date.	<input checked="" type="checkbox"/> Needs Mailed



**Facility Name**

Nicholas OD, Owen County

**Photographer**

Hayden Dayson

**Date/Time**

6/13/24, 11:01 am

**Others Present**

N/A

**Description**

Photo 1. Picture of remaining drywall in ditch.



**Facility Name**

Nicholas OD, Owen County

**Photographer**

Hayden Dayson

**Date/Time**

6/13/24, 11:01 am

**Others Present**

N/A

**Description**

Photo 2. Overview of the ditch area.