

MEMORANDUM

To: File

From: Ike Wilder, DHWM, CAS, EU

Subject: **Financial Record Review McCabe Engineering Company, Inc., OHD980700942, Dayton**

Date: June 30, 2007

On June 30, 2007, I completed a review of the financial assurance documentation file for the 636 North Irwin Street facility referenced above. I evaluated the facility for compliance with financial assurance and liability requirements set forth in the Ohio Administrative Code (OAC) rules 3745-55-42, 3745-55-43 and 3745-55-47.

In addition I evaluated the facility for compliance with the closure requirements set forth in the October 22, 1998 Consent Order (Montgomery County Court of Common Pleas, Case No. 08-3449) between the State of Ohio, ex rel. Betty Montgomery, Attorney General of Ohio and Republic Environmental Services (Ohio), Inc., Republic Environmental Systems, Inc., and BRAC, Inc.

To demonstrate compliance with financial assurance and liability rules, the 636 North Irwin Street facility uses a trust fund entered into with Fifth-Third Bank on December 12, 1986. On November 9, 2007, the trust fund was valued at \$235,881.62. The closure cost appears to have last been updated in October of 1998. Currently the facility does not have liability coverage.

On April 19, 2005 Ohio EPA requested that Bank of New York Trust Company, N.A. release \$8,321.47 to reimburse McCabe Corporation for work performed at the Facility.

Upon review of the financial assurance documentation, the following violations were found:

- Failure to have a current closure cost estimate in violation of OAC rule 3745-66-42;
- Failure to maintain adequate financial assurance for closure in violation of OAC rule 3745-66-43;
- Failure to maintain liability coverage in violation of OAC rule 3745-66-47; and
- Paragraph 8 of the Consent Order requiring Defendants to maintain compliance "...with all applicable provisions of the Ohio hazardous waste laws and rules as set forth in R. C. Chapter 3734 and the Ohio Adm. Code Chapters 3745-50 through 3745-69." This provision includes compliance with the above noted financial assurance regulations.

By letters dated March 7, 2001, April 21, 2003 and May 15, 2007, Mr. McCabe was notified of the above violations. These violations remain outstanding.

Do to the ongoing enforcement action this memo to file was written in lieu of an NOV.