OhioEPA

State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.
Twinsburg, Ohio 44087

TELE: (330) 963-1200 **FAX:** (330) 487-0769
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

December 3, 2007

RE: CITY VIEW CENTER PROJECT R&B DEVELOPMENT LANDFILL & MATOUSEK LANDFILL NOTICE OF VIOLATION

CERTIFIED MAIL

Matt McGill
McGill Property Group
Garfield Land Development LLC
30575 Bainbridge Road, Suite 100
Solon, Ohio 44139

and

Bennett Kest
c/o Thomas Klien
Kest Property Management Group
25200 Chagrin Blvd., Suite 300
Beachwood, Ohio 44122

Dear Mr. McGill and Mr. Kest:

The Ohio Environmental Protection Agency (Ohio EPA), Division of Solid and Infectious Waste Management (DSIWM) has completed review of the O&M Explosive Gas Monitoring and Inspection Reports for October 2007 for the City View Center site, located in Garfield Heights, Ohio. This report was e-mailed by Bob Skirkanic of Alemko LLE on behalf of City View Center, LLC and included results from floor monitoring ports sampled on October 24, 2007. The following violation was identified in the October 2007 O&M Explosive Gas Monitoring and Inspection Report:

1) Floor monitoring ports (FMP) Port #3 and Port #4 in Retail D remain 'blocked by a wall' and were not monitored during the October 2007 monitoring event. As you are aware, access to FMP Ports #3 & 4 have been blocked since at least May 24, 2007.

Failure to monitor all FMPs in compliance with the Operation and Maintenance Manual contained in Appendix H of Appendices E and F of the March 18, 2005 Director's Final Findings and Orders, is in violation of the following:

Order A. 2. of the March 18, 2005, Director's Final Findings and Orders, which states in part, "...Respondents shall perform all activities described in Appendices C, D, E and F as they pertain to the Facilities, and Respondents shall perform all

> such activities in strict accordance with these Orders and the plans, specifications, and other information contained in Appendices C, D, E and F. There may be no deviation from the requirements of Appendices C, D, E and F without prior written authorization from Ohio EPA. Any future activities at the Facilities beyond those required or authorized under these Orders may require additional Ohio EPA approval."

Ohio EPA has repeatedly cited this violation. It is imperative that access to all floor monitoring ports be achieved so that monitoring of the ports can be conducted. Please submit, within 10 days of your receipt of this letter, confirmation that access has been gained to the above mentioned FMPs, along with monitoring results from those ports.

Please submit a written response, within 10 days of your receipt of this letter, identifying what actions have been taken to address the above cited violations. If you have any questions regarding this letter, please do not hesitate to contact me at (330) 963-1276.

Nothing in this letter shall be construed to authorize any waiver from any requirements of applicable state solid waste laws or regulations. This letter shall not be interpreted to release McGill Property Group, LLC, Garfield Land Development, LLC, or others from responsibility under ORC Chapters 3704., 3714., 3734. or 6111; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants to the environment.

Sincerely,

Jarnal Singh

Jarnal Singh R.S.
Environmental Specialist
Division of Solid & Infectious Waste Management

JS/cl

cc: Karen Naples, DSIWM-NEDO
Melinda Berry, DSIWM-CO
Robert Eubanks, AGO, EES
Colin Johnson, Cuyahoga County Board of Health
Thomas Klein, City View Center, LLC
Bob Skirkanic, Alemko
File: [Sowers/Land/CityView /COR/18]