



State of Ohio Environmental Protection Agency

Northeast District Office

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Twinsburg, Ohio 44087

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

March 6, 2007

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

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

Dear Mr. McGill:

On February 28, 2007, I (Jarnal Singh), and John Schmidt of the Ohio Environmental Protection Agency (Ohio EPA) visited the First Merit Bank construction site at the City View Center. The purpose for our visit was to observe construction progress at the First Merit building. During this visit we observed that the concrete floor slab had been poured but no methane floor monitoring ports were visible in the slab. We returned to the site the following day (after reviewing monitoring port locations in our office) and confirmed that none of the four required monitoring ports were installed in the building.

On Friday March 2, 2007, Ohio EPA received an email from Todd Sciano of Donald G. Bohning & Associates, Inc., on behalf of McGill Property Group (MPG), stating that, "due to the contractor's error the floor monitoring ports were not installed prior to pouring the slab." On March 2, 2007, Ohio EPA, by email, informed Matt McGill and Ed McCabe of McCabe Corporation that further construction activities must cease at the First Merit Bank until the floor monitoring ports are installed as per the authorizing documents.

As you are aware, construction of the slab floor at the First Merit Bank (Outlot 7) without inclusion of the floor monitoring ports per details contained in the First Merit Addendum approved September 19, 2006, subject to Appendix E of the March 18, 2005 Director's Final Findings and Orders (Orders) is in violation of the following:

- 1) OAC Rule 3745-27-13(A) states in part that "no person shall, without authorization from the director, engage in filling, grading, excavation, building, drilling, or mining on land where a hazardous waste facility or solid waste facility was operated. Any person proposing to engage in these activities on land where a hazardous waste facility or solid waste facility was operated shall comply with the requirements of this rule."

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- 2) Order #5.A.2 of the March 18, 2005 Orders 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."

MPG, et al., is in violation of the City View Center authorizing documents (the only authority under which MPG has a legal right to perform construction). Therefore, the 2005 Orders and Ohio regulatory law require work to cease on the First Merit Bank until the floor monitoring ports are installed as per the authorizing documents.

Ohio EPA is in receipt of a March 2, 2007 alteration request which proposes to install an alternate floor port consisting of a six-inch diameter geo-composite, grouting with a non-shrink grout, and coring a four-inch access port through the concrete floor.

Ohio EPA has reviewed the request and finds that MPG must install the floor ports as originally designed, with a four-foot by four foot geo-composite as specified in Detail 2 of Drawing MC-3.1 of the September 19, 2006, alteration to the March 18, 2005, authorization. This will require removal of a five foot by five foot section of concrete floor in each floor port location, opening the corresponding section of flexible membrane liner (FML), inspecting the structural fill for suitability, checking the existing FML for damage, placing the four foot by four foot section of geo-composite, installing a patch of flexible membrane liner, installing a boot to attach the FML to the casting, and reconstructing the concrete floor. Note that the FML will need to be installed by a qualified FML installer such as American Environmental Group (AEG), and have appropriate quality assurance and quality control as specified in your authorization, including 100% nondestructive testing of all seams and boots. Note that all geosynthetics used in the construction of the floor ports and repair of the FML must meet the requirements as specified in the construction quality assurance and quality control (CQA/QC) plan of your authorization.

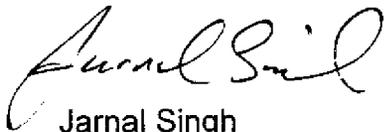
Please provide a written response to Ohio EPA as soon as possible concerning MPG, et al's commitment to stop construction on the First Merit Bank until/unless commencing installation of the methane gas floor monitoring ports in accordance with authorizing documents. Additionally, please provide Ohio EPA and the Cuyahoga County Board of Health at least 72 hours written notification prior to commencing the repairs.

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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.

If you have any questions regarding this letter, please do not hesitate to contact me at (330) 963-1276.

Sincerely,



Jarnal Singh
Environmental Specialist
Division of Solid and Infectious
Waste Management



John Schmidt
Environmental Specialist
Division of Solid and Infectious
Waste Management

JS/cl

cc: Robert Eubanks, AGO, EES
Melinda Berry, DSIWM-CO
Matt Johnson, Cuyahoga County Board of Health
John McGill, President, McGill Property Group
Todd Sciano, Donald G. Bohning & Associates, Inc.
Ed McCabe, McCabe Engineering
Kristin Esser, Coral Asset Management
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