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

October 25, 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

Thomas Klein
City View Center, LLC
City View Center Holding Company, LLC
21 Orchard Street
Monsey, New York 10952-3018

Dear Mr. McGill and Mr. Klein:

The Ohio Environmental Protection Agency (Ohio EPA), Division of Solid and Infectious Waste Management (DSIWM) has completed review the following monthly O&M Explosive Gas Monitoring and Inspection Reports for the City View Center, located in Garfield Heights, Ohio:

- O&M Explosive Gas Monitoring and Inspection Report for July 2007, received by Ohio EPA on August 6, 2007
- O&M Explosive Gas Monitoring and Inspection Report for August 2007, received by Ohio EPA on August 27, 2007
- O&M Explosive Gas Monitoring and Inspection Report for September 2007, received by Ohio EPA on October 1, 2007

The reports were emailed by Bob Skirkanic of Alemko LLE on behalf of City View Center, LLC. The following violations were identified in the O&M Explosive Gas Monitoring and Inspection Reports:

1) The O&M Explosive Gas Monitoring and Inspection Report for July 2007 indicated elevated levels of gas at the following locations and concentrations:

- WalMart F.R. Port recorded levels of >100% LEL
- WalMart F.L. Port recorded levels of >85% LEL

As you are aware, Section 2.3 of your Operation & Maintenance Manual contained in Appendix H of Appendices E and F of the March 18, 2005 Director's Final Findings and Orders states in part, *"If gas concentrations in the monitoring ports are 25% LEL of gas, the monitoring should be increased to weekly while adjustments are made to the extraction system lateral balancing"*

Weekly monitoring of WalMart's F.R. Port and F.L. Port, was not conducted following gas concentrations above 25% LEL. The results of weekly gas monitoring must be included in the monthly reports, along with notes that identify what actions were taken to bring the elevated gas concentrations down at the floor monitoring ports (FMPs).

Failure to conduct weekly monitoring at the FMPs with gas concentrations greater than 25% LEL, as specified in the Operation & 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 that, "...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."

2) Floor monitoring ports Port #3 and Port #4 in Retail D were not monitored during the July 2007, August 2007 and September 2007 monitoring events. All three reports indicated that access to Ports #3 & 4 were "*Blocked by Wall*". Access to Port #3 & 4 has 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."

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 as been gained to the above mentioned FMPs, along with monitoring results from those ports upon gaining access to them.

It was also noted that the times recorded on the monitoring logs were not accurate. Monitoring logs indicated that it typically only takes one minute to sample a location and arrive at the next monitoring location. This includes the time it takes to gain access to a floor monitoring port, attach the instrument to the port, take the reading, record the reading, close up the cover and walk to the next monitoring location. In building such as WalMart (as recorded in the July 2007 Report), it took the technician only 4 minutes to sample four monitoring ports. Actual times must be recorded on the logs. Please ensure that accurate data is recorded on the logs.

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 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
Bob Skirkanic, Alemko LLE
Colin Johnson, Cuyahoga County Board of Health
Bennett Kest, Kest Property Management Group
File: [Sowers/Land/CityView /COR/18]