



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

June 18, 2008

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

**CERTIFIED MAIL**

Matt McGill  
McGill Property Group, LLC  
Garfield Land Development LLC  
GHLFP, LLC  
125 W. Indiantown Rd, #102  
Jupiter, Florida 33458

and

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

and

Bennett Kest c/o Thomas Klien  
Kest Property Management Group  
4832 Richmond Road  
Cleveland, OH 44128

Dear Mr. McGill, Mr. Klein and Mr. Kest:

On June 12, 2008, The Ohio Environmental Protection Agency (Ohio EPA) accompanied Alemko on their gas monitoring event of the storm and sanitary sewers at the City View Center shopping center located on Transportation Blvd., in Garfield Heights, Ohio.

Elevated levels of explosive gas continue to be detected in the storm and sanitary sewers at this site. Ohio EPA and Alemko detected landfill gas levels in excess of 100% LEL (Lower Explosive Limit) in four (4) storm sewer manholes located on land south of the PetSmart store (Retail L area). Other storm and sanitary sewer manholes/catch basins detected levels ranging between 0 and 52% LEL. A summary of Ohio EPA's June 12, 2008, storm and sanitary sewer monitoring event is attached for your reference.

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As you are aware, landfill gas continues to migrate into the storm and sanitary structures at the City View Center shopping center and is accumulating at dangerous levels within these structures. The uncontrolled migration and accumulation of landfill gas in the storm and sanitary sewers at this site is a threat to public health and safety and is in violation of the following:

- 1) **Ohio Administrative Code (OAC) Rule 3745-27-13(J)** *which states, in part* "No person shall engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility or a solid waste facility was operated unless such activity will not result in violation of applicable laws and regulations administered by the director, will not create a nuisance, and will not adversely affect the public safety or health or the environment."

McGill Property Group, LLC (MPG), City View LLC, and Garfield Land Development, LLC (GLD) remain in violation of OAC 3745-27-13(J). Immediate action must be taken to prevent the uncontrolled migration of landfill gas at this site. Daily monitoring of the storm and sanitary sewers at the site should be undertaken until a permanent solution to gas migration is in place.

The following observations were also noted during this sampling event and require your immediate attention:

Erosion of the cover soils on the slope located east of the Retail L building pad (the former proposed Home Depot site) continues. Cover soils in this area have eroded to the extent that the waste beneath it has been exposed. Deep erosion channels also exist on the Northeast Mound (NEM). Ohio EPA is aware that some erosion control measures were undertaken on the NEM in the past, however, actions were not taken to prevent erosion from reoccurring in those areas. As such, erosion has occurred beneath erosion matting that was placed on some areas of the NEM. Additional measures need to be taken to address and prevent future erosion at the site. The western slope of the site was not inspected during this visit. Continued erosion of cover soils at this site is in violation of the following requirements:

- 2) **DFF&Os issued March 18, 2005, Order A.11)**, states, *"For the purposes of erosion control during activities conducted at the facilities in accordance with Appendices C, D, E and F, Respondents MPG, Garfield, and GHLFP shall use best management practices and standards as specified in the National Resources Conservation manual titles Rainwater and Land Development"*

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- 3) **December 3, 2003, OAC Rule 3745-27-13 Authorizations** issued to Peter J. Limited for the R&B Development and Matousek Landfills:  
**Condition 14** (of both approvals) states, *"For the purposes of erosion control during all phases of excavation and grading at the landfill, Peter J. Limited shall, at a minimum, use Best Management Practices (BMP) standards in accordance with the National Resources Conservation manual titles Rainwater and Land Development."*
- 4) **DFF&Os issued March 18, 2005, Order D.1)c.** which states that the Respondents shall, *"Maintain the landfill cap system at the Facilities and repair damage to the engineered components."*

MPG, GHLFP LLC, and GLD remain in violation of the above cited requirements. Eroded cover soils allow rainwater to infiltrate through the cap and exacerbate the production of leachate and landfill gas. Erosion channels must be repaired at the site. It is recommended that additional measures be employed in areas that are prone to the development of erosion at this site.

Leachate was also observed in the storm drains located along the southern toe of the NEM. The issue of leachate discharging off site via storm drains has also been brought to MPG's attention numerous times in the past, yet the violations continue to exist. The following is a summary of the violations resulting from the discharge of leachate observed on June 12, 2008:

- 5) **Ohio Revised Code (ORC) Section 6111.04**, which states in part, *"No person shall cause pollution or place or cause to be placed any sewage, industrial waste, or other wastes in a location where they cause pollution of any waters of the state, and any such action is hereby declared to be a public nuisance, except in such cases where the director of the environmental protection has issued a valid and unexpired permit, or renewal thereof, as provided in sections 6111.01 to 6111.08 of the Revised Code, or an application for renewal is pending."*
- 6) **OAC Rule 3745-27-13(H)(6)** states, in part, that *"no excavation of waste shall occur unless the excavated waste is replaced within the previously existing horizontal and vertical limits of waste placement or is treated or disposed of in an appropriate facility in accordance with ORC Chapter 3734. Any wastes known/suspected as hazardous shall be stored in accordance with ORC Chapter 3734 until they are properly characterized,*

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*treated, and disposed. Any liquid wastes released during the authorized activities shall be stored in accordance with ORC 3734 until characterized, treated, and disposed."*

- 7) **Condition 2 of the December 3, 2003, R&B Development Landfill OAC Rule 3745-27-13 Authorization** provides, in part, that all on-site activities shall be accomplished in compliance with all applicable state and federal laws and regulations pertaining to environmental protection, including, but not limited to, the control of air pollution, leachate, surface water run-on and run-off, and protection of ground water.
- 8) **Condition 11 the December 3, 2003, R&B Development Landfill OAC Rule 3745-27-13 Authorization** provides, in part, that all, semi-solids, industrial wastes, and other ORC Chapter 6111. wastes removed shall be containerized, securely stored, characterized, and disposed of in accordance with ORC Chapter 6111.
- 9) **DFF&Os issued March 18, 2005, Order D.1)b.** which states that the Respondents shall, "Operate and maintain any leachate collection system at the facilities, repair all leachate outbreaks and prevent the discharge of leachate from the Facilities"

MPG and GHLFP LLC continue to illegally discharge leachate from the NEM. Immediate actions must be taken to prevent leachate entering the storm sewer systems at this site.

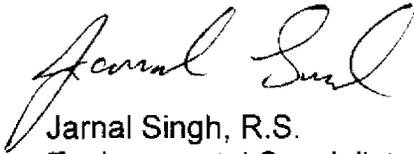
Please submit a written response, within 5 days of your receipt of this letter, identifying what actions have been taken to address the above cited violation.

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 MPG and GHLFP 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.

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

Sincerely,



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

JS/cl

Attachment: June 12, 2008, CVC Storm/Sanitary Sewer Gas Monitoring Results

cc: Robert Eubanks, AGO  
Melinda Berry, DSIWM-CO  
Mayor Longo, City of Garfield Heights  
Colin Johnson, Cuyahoga County Board of Health  
Bob Skirkanic, Alemco  
Chief Nemetz, Garfield Heights Fire Dept.  
Scott Broski, Northeast Ohio Regional Sewer District  
File: [Sowers/COUN/CityViewCenter/COR/18]

# City View Center Storm/Sanitary Sewer Explosive Gas Monitoring Results

**Date Conducted:** June 12, 2008

**Present were:** Jarnal Singh and John Hujar of the Ohio EPA  
Jeremy Rieger of Alemko

**Gas Instrument Used:** MSA Sirius Multi Gas Detector      **Serial #** A3-5555

**Last Calibrated:** 6/12/2008      **Calibration Standard:** A

**Weather Conditions:** Sunny, approx 85 Degrees F

Monitoring Station #	Description	LEL (%)	%v/v CH4	Alemko
S46	Sanitary MH	0		-
D55	Covered	100	26	26%VOL
D57	Grated Storm	13		-
D53	Grated Storm	100	43	43%VOL
D51	Grated Storm	35		7
S46	Uncovered San	0		0
D49	Covered	1		4
S44	Covered	0		0
D47A	Covered	100	40	40%VOL
S43A	Covered	0		-
D45	Partially open	100	2	2%VOL
S43	Covered	25		-
D46B	Grated Storm	42	3	3%VOL
D28?	Grated Storm	7		17
D43	Grated Storm	20		13
D35	Grated Storm	0		0
S42	Covered	4		0
D37	Grated Storm	52		26
D20	Grated Storm	16		10
	GE Sanitary Vault	9		0
D42A	Grated Storm	4		6
D42	Grated Storm	0		0

Monitoring Station #	Description	LEL (%)	%v/v CH4	Alemko
D43	Grated Storm	-		5
B12	Grated Storm	-		0
	AJ Sanitary Vault	0		0
	JoAnn Sanitary Vault	0		0
B9	Grated Storm	0		0
B5	Grated Storm	0		0
	Retail D San Vault	0		0
B2	Covered	11		0
	Circuit City San Vault	0		0
A60	Grated	4		0
A59	Grated Storm	4		0
A58	Grated Storm	18		15
A53	Grated Storm	0		0
A52	Grated Storm	33		18
A39	Grated Storm	4		0
A42	Grated Storm	0		0
A23	Grated Storm	22		19
A40	Grated Storm	0		0
A47?	Covered	0		0
A54	Grated Storm	0		0
	WalMart Comm Vault	0		0
A55	Grated Storm	0		0
A56	Grated Storm	0		0
A57	Grated Storm	0		0
B32	Grated Storm	0		0
B31	Grated Storm	0		0
S36	Covered	0		0
B39A	Grated Storm	0		0
B29	Grated Storm	0		0
B3	Grated Storm	6		0

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Monitoring Station #	Description	LEL (%)	%v/v CH4	Alemko
B33	Grated Storm	50		39
B34	Grated Storm	10		0
B34A	Grated Storm	80		0
B8	Grated Storm	0		0
B6	Grated Storm	0		0
B7	Grated Storm	0		0
B10	Grated Storm	0		0
B10A	Grated Storm	0		0
B10B	Grated Storm	0		0
B11	Grated Storm	7		0
B13	Grated Storm	0		0
	Dicks Comm Vault	4		0
	Dick Electric Vault	8		0
D44	Grated Storm	42		26
D41	Grated Storm	11		0
S40	Grated Storm	11		6
D39	Grated Storm	28		17
S41	Grated Storm	0		0
D38	Grated Storm	0		0
D12A	Grated Storm	0		0
D12B	Grated Storm	0		0
D12	Grated Storm	0		0
D10B	Grated Storm	0		0
D10	Grated Storm	0		0
D10A	Grated Storm	0		0
D10C	Grated Storm	0		0
D9	Grated Storm	0		0
D18B	Grated Storm	0		0
D18D	Grated Storm	0		0
UNKNOWN	Grated Storm	0		0

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Monitoring Station #	Description	LEL (%)	%v/v CH4	Alemko
D18C	Grated Storm	0		0
D18A	Grated Storm	0		0
D19B	Grated Storm	0		0
D19A	Grated Storm	0		0
D19	Grated Storm	0		0
D22	Grated Storm	0		0
GE DOCK	Grated Storm	0		0
D22A	Grated Storm	0		0
C22	Grated Storm	0		0
C21	Grated Storm	0		0
C20	Grated Storm	0		0
C19A	Grated Storm	0		0
C18	Grated Storm	0		0
Behind Retail -D	Covered	10		0
C17	Grated Storm	0		0
C24	Grated Storm	0		0
Behind C-City	Covered	0		0
C16	Grated Storm	0		0
C25	Grated Storm	0		0
C27	Grated Storm	0		-
A50	Grated Storm	0		-
A49	Grated Storm	0		-
A48	Grated Storm	0		-
GETGO	Grated Storm in S corner	11		-
GETGO	Grated Storm	0		-

Date: 6-12-08