



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

February 16, 2007

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

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

Dear Mr. McGill:

On January 31, 2007, I (Jarnal Singh), and John Schmidt of the Ohio Environmental Protection Agency (Ohio EPA) briefly visited the City View Center project site. The purpose for our visit was to observe commencement of installation of flexible membrane liner (FML) at the First Merit building. Upon arrival at the site we were informed that installation of the FML had been delayed due to inability to dry out the surface of the soil.

On exiting the site we observed a stockpile of excavated municipal solid waste (MSW) situated north of the GetGo gas station and west of the northeast mound. A representative of Harp Contractors informed us that waste was being excavated for installation of sanitary sewer line. He stated that the waste was being relocated to an area at the southern end of Transportation Blvd. on the Matousek Landfill. Ohio EPA notified the Harp representative that waste from this excavation (i.e. R&B Landfill waste) could not be relocated to the Matousek Landfill.

On February 1, 2007, Ohio EPA, by phone conversation, notified Ed McCabe and Ken Nehls of McCabe Corporation and Todd Sciano of Donald G. Bohning & Associates, Inc. that MSW from the R&B Landfill was not permitted to be reconsolidated on Matousek Landfill. Reconsolidation of waste from the R&B Landfill to the Matousek Landfill is in violation of the following:

- 1) **Director's Final Findings and Orders Issued March 18, 2005, Order A.12)** which states, "Respondents MPG, Garfield, and GHLFP shall ensure that excavated waste is relocated within previously existing horizontal limits of waste placement or is treated or disposed of at a licensed, permitted treatment or disposal facility, in accordance with ORC Chapter 3734. and the regulations promulgated thereunder. In no event shall waste be placed at any elevation lower than existing waste elevations at any given location at the Facilities," and

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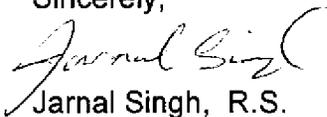
- 2) **OAC Rule 3745-27-13(H)(6)** which states, in part, that "no excavation of waste can occur unless the excavated waste is replaced within previously existing horizontal and vertical limits of waste placement or is treated or disposed of at a licensed, permitted treatment or disposal facility, in accordance with ORC Chapter 3734. and the regulations promulgated thereunder."

Waste from the R&B Landfill cannot be relocated to the Matousek Landfill (or vice versa) without prior approval from the Director of Ohio EPA. Please submit documentation, within 10 days of your receipt of this letter, identifying the amounts, dates and areas that waste from R&B Landfill was relocated to the Matousek Landfill, along with a scope of works to identifying when and where this waste will be relocated to. Alternatively, waste that cannot be replaced within the footprint of the landfill from which it originated, must be removed for proper off site disposal.

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

JS/cl

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