



**Environmental  
Protection Agency**

John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Nally, Director

**Certified Mail**

91 7108 2133 3932 0808 2439

March 12, 2012

Mr. Adam Fishman  
Cuyahoga County Board of Commissioners  
2618 N. Moreland Blvd.  
Cleveland, Ohio 44120

**Re: Notice of Violation of Operation and Maintenance Agreement and Risk Mitigation Plan, Flats East Development Area (O&M #218-002357-007)**

Dear Mr. Fishman:

The Flats East Development Area property, located at 611 West Shoreline Drive, Sandusky, Ohio received a Covenant Not to Sue from Ohio EPA on March 3, 2011. This Covenant contains a Risk Mitigation Plan (RMP) and Operation and Maintenance Agreement (OMA) entered into by the Cuyahoga County Board of Commissioners and the Ohio EPA. Flats East Development Area has failed to submit the annual O&M report and RMP report required under the agreement. This failure is a violation of the OMA, and in accordance with Section 8 of that OMA, a failure to comply with the OMA may constitute a failure to maintain an applicable standard in accordance with Ohio Revised Code (ORC) Section 3746-12(B).

The Covenant requires that certain risk mitigation measures be taken to minimize contact with soil, sediment, or ground water that may exceed the cleanup standards for the property. These risk mitigation measures are contained in the RMP.

Examples of actions that may cause an RMP to be implemented:

- Excavations of greater than 2 feet in depth
- Landscaping activities
- Installation of, or repair of utility lines
- Road repair and/or construction

Both the annual Operation and Maintenance report and the RMP report were due by March 1, 2012. In order that Flats East Development Area may return to compliance as quickly as possible, you must submit the annual O&M report and RMP report to Ohio EPA within 30 days of receipt of this letter. This information is needed so that Ohio EPA can ensure that the cleanup standards continue to be met at the property. If applicable standards are not maintained, the Covenant Not to Sue could be revoked.

If the RMP was implemented during the past calendar year, please provide a written report to Ohio EPA as required by the RMP. If the RMP was not implemented during the past year, please return the enclosed form indicating that no activities were conducted that caused you to implement the RMP. Please also take the time to update your contact information.

Additionally, please submit all annual reports to Ohio EPA as both the original paper report along with an electronic disk copy of the report in pdf format.

Please be aware that the time Ohio EPA staff have spent on addressing this violation of your OMA and RMP, and any time that may be spent in the future by Ohio EPA, will be billed to your Voluntary Action Program account.

If you have any questions concerning this matter, please contact me at (614) 728-5441, or via email at [Emily.Patchen@epa.state.oh.us](mailto:Emily.Patchen@epa.state.oh.us).

Sincerely,



Emily Patchen  
Compliance Coordinator  
Division of Environmental Response & Revitalization  
Central Office

cc: Mr. Michael J. McKim, CP #249  
URS Corp.  
1375 Euclid Avenue, Suite 600  
Cleveland, Ohio 44115-1808

ec: Frank Robertson, Supervisor, DERR-CO  
Nancy Zikmanis, Supervisor, DERR-NEDO  
Rod Beals, Manager, DERR-NEDO  
CO/NEDO Files

**Ohio EPA Voluntary Action Program  
Notice that RMP was NOT implemented  
Flats East Development Area**

**Directions:**

Please sign and date this form. Provide any necessary corrections to the contact information. Return this form to:

Ohio EPA  
50 W. Town St., Suite 700  
P.O. Box 1049  
Columbus, Ohio 43215

\_\_\_\_\_ No activities were conducted at this property during the reporting period that caused an Implementation of the Risk Mitigation Plan.

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Signature & Date

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Printed Name & Title

Telephone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**Please return this form to Emily Patchen within 30 days if receipt.**