Ohio Environmental Protection Agency
John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

June 15, 2012

RE: BROOKPARK LANDFILL
CUYAHOGA COUNTY
NOTICE OF VIOLATION

Richard S. Wasosky, P.E. P.S.
Euthenics, Inc.
8235 Mohawk Drive
Cleveland, Ohio 44136

***CERTIFIED MAIL* 7011 0470 0002 3496 2839**

Brad Gentille
IX Center Corporation
1 IX Center Drive
Cleveland, Ohio 44135

***CERTIFIED MAIL* 7011 0470 0002 3496 2846**

Dear Mr. Wasosky and Mr. Gentille:

On May 29, 2012, Ohio Environmental Protection Agency (Ohio EPA) received a facsimile from Euthenics, Inc. containing testing results for foundry sand sampled during drilling conducted for the "IX Center Proposed Outfall Storm Sewer Location." Additional information was received on May 30, 2012, including a map showing the location and boring logs for borings which had been conducted on May 2 and May 7, 2012. The borings were conducted on the Brookpark Landfill which is owned by the city of Cleveland and leased by IX Center Corporation.

Ohio Administrative Code (OAC) Rule 3745-27-13(A) states:

No person shall, without authorization from the director, engage in filling, grading, excavating, 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.

Authorization was not obtained from Ohio EPA prior to conducting drilling on the landfill; therefore, you are in violation of the above rule. Please provide a response to this letter within 15 days of receipt.

Prior to engaging in any additional activity at the landfill, please be aware that authorization must be requested and obtained pursuant to OAC Rule 3745-27-13. The correspondence dated May 29, 2012 stated that "the foundry sand will be removed from the proposed IX Center outfall sewer trench and buried on site and covered with a 3 foot deep layer of clay." OAC Rule 3745-27-13(H)(6) states "no excavation of waste shall

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..." Ohio EPA will conduct a complete review of the request for installation of the storm sewer when it is received to determine whether the proposed construction on the landfill complies with OAC Chapter 3745-27-13.

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 the property owner 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 contact me at (330) 963-1238, or judy.bowman@epa.state.oh.us.

Sincerely,

Judy Bowman
Division of Materials and Waste Management

JB/cl

cc: Jennifer Carlin, DMWM-NEDO
Nancy Zimanis, DERR-NEDO
Ricky D. Smith, City of Cleveland Department of Port Control
Annie Snyder, City of Cleveland Department of Public Health
File: [Sowers/Land/Brookpark LF/COR/18]