



**Environmental
Protection Agency**

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

July 31, 2012

Mr. Sam P. Cannata
Vista Way Partners, LLC
5595 Transportation Blvd., Suite 100
Garfield Heights, Ohio 44125

**RE: Notice of Violation
Vista Way Partners, LLC, Cuyahoga County**

Dear Mr. Cannata:

In accordance with Condition Number 20 of the June 14, 2006 Ohio Administrative Code ("OAC") Rule 3745-27-13 Authorization, issued by the Director of Ohio EPA, Vista Way Partners, LLC was required to:

- 20) *Not later than thirty (30) days after the effective date of this approval, Vista Way Partners, LLC shall submit to Ohio EPA an executed and funded financial assurance instrument in the form of surety bond or a letter of credit in the amount of at least \$192,600.00 for post-construction care to maintain and operate constructed components at the Facility. A surety bond shall meet the requirements of OAC Rule 3745-27-15(G) or 3745-27-15(H) and the requirements of OAC Rule 3745-27-17(B) or 3745-27-17(C). A letter of credit shall meet the requirements of OAC Rule 3745-27-15(I) and OAC rule 3745-27-17(D). The financial assurance instrument shall be maintained for 30 years after the date of submission of the last certification report submitted in accordance with Condition Number 6 for the completion of construction activities undertaken by Vista Way Partners, LLC. The financial assurance instrument shall be updated annually in accordance with OAC Rule 3745-27-16(D).*

The financial assurance instrument was required to be submitted to Ohio EPA no later than July 14, 2006. To date, Vista Way Partners, LLC has failed to meet this condition required for this Approval. Therefore, Vista Way Partners, LLC is in violation of Condition Number 20 of the OAC Rule 3745-27-13 Authorization for failure to submit to Ohio EPA an executed and funded financial assurance instrument.

In addition, the financial assurance instrument was required to be updated annually in accordance with OAC Rule 3745-27-16(D), which states [in pertinent part], *"The owner or operator shall annually review and analyze the post-closure care cost estimate and shall make any appropriate revisions to these estimates and to the financial assurance instrument. Any revised post-closure care cost estimate must be adjusted for inflation...."*

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Vista Way Partners, LLC
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To date, Vista Way Partners, LLC has failed to meet this condition required for this Approval. Therefore, Vista Way Partners, LLC is in violation of Condition Number 20 of the OAC Rule 3745-27-13 Authorization for failure to annually update the financial assurance instrument.

Vista Way Partners, LLC will remain in violation of this OAC Rule 3745-27-13 Authorization until a financial assurance instrument is submitted to Ohio EPA and updated appropriately for inflation. Below are the inflationary increases for the years 2007-2012. This financial assurance instrument must be submitted to the Director of Ohio EPA and must be the originally signed document.

The inflation factors for 2007 through 2012 are:

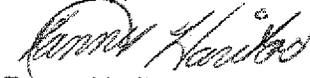
2007 – 2.9%
2008 – 2.66%
2009 – 2.1%
2010 – 1.18%
2011 – 0.9%
2012 – 2.1%

Vista Way Partners, LLC needs to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, Vista Way Partners, LLC is requested to provide documentation to this office including the steps taken to abate the violations cited above. Documentation of steps taken to return to compliance includes written correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to fanny.haritos@epa.ohio.gov.

Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapter 3734. of the Ohio Revised Code and rules promulgated thereunder may result in a civil penalty of up to \$10,000 per day for each violation. It is imperative that you return to compliance. If circumstances delay the abatement of violations, Vista Way Partners, LLC is requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

If you have any questions, please contact me by telephone at (614) 728-5343 or by e-mail at fanny.haritos@epa.ohio.gov.

Sincerely,



Fanny Haritos
Financial Assurance and Remediation Unit
Division of Materials and Waste Management

FH/jm

cc: Karen Naples, DMWM, NEDO
Melinda Berry, DMWM, CO

Jarnal Singh, DMWM, NEDO