



**Environmental  
Protection Agency**

John E. Kasich, **Governor**

Mary Taylor, **Lt. Governor**

Scott L. Nalby, **Director**

SEPTEMBER 12, 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:

A notice of violation dated July 31, 2012, was sent from Ohio EPA to you for failure to fund the financial assurance instrument for post-construction care and failure to annually update the amount of financial assurance in accordance with Condition 20 of the June 14, 2006 Ohio Administrative Code ("OAC") Rule 3745-27-13 Authorization, issued by the Director of Ohio EPA. Specifically, 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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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 must immediately take the necessary measures to return to compliance with Ohio's environmental laws. Documentation should be submitted to this office demonstrating abatement of existing violations. 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 Partner, LLC is requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release the owner or operator, or others, from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Resource Conservation and Recovery Act, or Comprehensive Environmental Response, Compensation, and Liability Act for remedying conditions resulting from any release of contaminants to the environment.

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