



**Environmental  
Protection Agency**

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

September 18, 2012

Ed McCabe, President  
McCabe Engineering, Inc.  
3470 Brecksville Road,  
Richfield, Ohio 44286

**RE: CLOSURE AND FINANCIAL ASSURANCE  
636 NORTH IRWIN STREET, DAYTON, OHIO  
OHD980700942  
NOTICE OF VIOLATION**

Dear Mt. McCabe:

On September 17, 2012, I completed a review of the financial assurance documentation file for the 636 North Irwin Street facility referenced above. I evaluated the facility for compliance with financial assurance and liability requirements set forth in the Ohio Administrative Code (OAC) rules 3745-55-42, 3745-55-43 and 3745-55-47.

In addition I evaluated the facility for compliance with the closure requirements set forth in the October 22, 1998 Consent Order (Montgomery County Court of Common Pleas, Case No. 08-3449) *State of Ohio, ex rel. Betty Montgomery, Attorney General of Ohio and Republic Environmental Services (Ohio), Inc., Republic Environmental Systems, Inc., and BRAC, Inc.*

On February 13, 2009, Montgomery County Court of Common Pleas Judge Mary Weisman ordered that McCabe et al. submit a closure cost estimate within 60 days of her ruling in *State of Ohio, ex rel. Nancy H. Rogers, Attorney General of Ohio vs. Republic Environmental (Ohio), Inc. et al.* (Montgomery County Court of Common Pleas Case No. 98-3449). An amended closure plan was submitted on May 21, 2011. An additional amended closure plan was received by Ohio EPA on September 17, 2012. Ohio EPA has not yet approved the amended closure plan.

To demonstrate compliance with financial assurance and liability rules, the 636 North Irwin Street facility uses a trust fund entered into with Fifth-Third Bank on December 12, 1986. On June 30, 2012, the trust fund was valued at \$234,768.37. The closure cost was last updated in October of 1998. Therefore, it cannot be determine if the current financial assurance is adequate.

McCabe Corporation has a general liability policy with Westchester Surplus Lines Insurance Company. The policy number is G24641764001. The policy has a \$1,000,000 per occurrence and a \$2,000,000 aggregate. The policy expires on March 11, 2013. In her October 9, 2009

ruling granting judgment for stipulated penalties, Judge Weisman ruled that the general liability coverage supplied by Mr. McCabe may be adequate.

**Upon review of the financial assurance documentation, the following violations were found:**

- Failure to have a current closure cost estimate in violation of OAC rule 3745-55-42;
- Failure to maintain adequate financial assurance for closure in violation of OAC rule 3745-55-43; and
- Paragraph 8 of the October 22, 1998 Consent Order requiring Defendants to maintain compliance ....with all applicable provisions of the Ohio hazardous waste laws and rules as set forth in R. C. Chapter 3734 and the Ohio Adm. Code Chapters 3745-50 through 3745-69. This provision includes compliance with the above noted financial assurance regulations.

If you have any questions, or need further clarification of any matter mentioned in this letter, please do not hesitate to contact me at (614) 644-3067 or at [isaac.wilder@epa.state.oh.us](mailto:isaac.wilder@epa.state.oh.us).

Sincerely,



Isaac Wilder  
Ohio EPA  
Division of Materials & Waste Management

W/jm

Cc: Brian Gitzinger, DERR, SWDO  
Brian Ball, AGO

**Notice:**

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with applicable regulations.