



State of Ohio Environmental Protection Agency

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P.O. Box 1049
Columbus, OH 43216-1049

May 15, 2007

Mr. John McGill
McGill Property Group, LLC
30575 Bainbridge Road, Suite 100
Solon, OH 44139

**RE: Notice of Violation
Financial Assurance
McGill Property Group, LLC, Garfield Land Development LLC, and GHLFP, LLC
Cuyahoga County**

Dear Mr. McGill:

On March 18, 2005, Director's Final Findings and Orders ("Orders") were issued to McGill Property Group, LLC, Garfield Land Development LLC, and GHLFP, LLC. Order No. 5.C.3. and 5.C.6. state that the financial assurance instrument shall be updated annually in accordance with the rules. Specifically, the Orders require McGill Property Group, LLC, Garfield Land Development LLC, and GHLFP, LLC to accomplish the following:

- 5.C.3. The established closure financial assurance shall be updated annually in accordance with Ohio Administrative Code ("OAC") Rule 3745-27-15(D). Respondents shall comply with the requirements of OAC Rules 3745-27-15 and 3745-27-17 notwithstanding any argument that such rules are not legally applicable to Respondents' activities at the Facilities.
- 5.C.6. The established post-closure care financial assurance shall be maintained for thirty years from the date of the completion of all construction activities undertaken by or on behalf of Respondents at the Facilities and updated annually in accordance with OAC Rule 3745-27-16(D). Respondents shall comply with the requirements of OAC Rules 3745-27-16 and 3745-27-17 notwithstanding any argument that such rules are not legally applicable to Respondents' activities at the Facilities.

OAC Rules 3745-27-15(D) and 3745-27-16(D) require that the closure and post-closure care cost estimates be reviewed and analyzed annually and any appropriate revisions to these estimates and to the financial assurance instrument be made whenever a change in the costs estimates increase the cost of closure and post-closure care. In addition, the cost estimates must be updated for inflation.

The financial assurance mechanisms were required to be executed and funded by May 17, 2005; therefore, the anniversary date for updating the financial assurance mechanisms is May 17 of each year. Our records indicate that, to date, Respondents have failed to

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

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submit updated cost estimates and updated financial assurance by May 17, 2006, in accordance with the Orders and OAC Rules 3745-27-15(D) and 3745-27-16(D).

The itemized costs for closure and post-closure care must be reviewed and analyzed, then increased for inflation. The inflation factor to use for 2006 was 2.7% and the inflation factor for 2007 is 2.9%. When updating these itemized costs, please pay special attention to the cost of leachate disposal as this cost was extremely underestimated in the original cost estimate submission. In addition, Stage 4 of the Leachate Management Contingency Plan requires the installation of horizontal or vertical extraction wells. Therefore, the cost of installing and maintaining these systems must be included in your cost estimates and funded accordingly.

Respondents remain in violation of the Orders and OAC Rules 3745-27-15(D) and 3745-27-16(D) until revised cost estimates acceptable to Ohio EPA are submitted; funding the financial assurance mechanisms in the appropriate amounts have been accomplished; and the documents submitted to Ohio EPA. These cost estimates must be in amounts that truly reflect the actual costs of conducting closure and thirty years of post-closure care. Please respond to this letter within fifteen days after receipt and indicate how you will resolve these ongoing violations of Ohio law.

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 Respondents or owner/operator, from responsibility under Chapters 3704., 3714., 3734., or 6111. of the Ohio Revised Code or under the Federal Clean Water or Comprehensive Environmental Response, Compensation, and Liability Acts remedying conditions resulting from any release of contaminants to the environment. If you have any questions, please call me at (614) 728-5343.

Sincerely,



Fanny Haritos
Compliance Monitoring and Enforcement Unit
Division of Solid and Infectious Waste Management

FH/sw

cc: Robert Eubanks, Assistant Attorney General
Melinda Berry, DSIWM, CMEU
Jarnal Singh, DSIWM, NEDO
Karen Naples, DSIWM, NEDO