REPUBLIC SERVICES, INC.

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OHIO EPA

VIA TELECOPIER (614) 644-3184

February 26, 2008

Christopher Korleski
Director, Ohio Environmental Protection Agency
Lazarus Government Center
50 West Town Street., Suite 700
Columbus, Ohio 43215

RE: COUNTYWIDE LANDFILL - FEBRUARY 21, 2008 NOTICE OF VIOLATION

Dear Mr. Korleski:

I am writing in response to the February 21, 2008 Notice of Violation (NOV) regarding Countywide Landfill. As you know, while Republic Services acquired Countywide in 1999, this unfortunate and unprecedented issue was not discovered until 2006. Since discovery, Republic Services has continually and consistently expressed its willingness to cooperate with the Agency in addressing the issues at Countywide, as evidenced by the enormous resources Countywide has expended, including both financial and technical resources. Although Countywide has not always agreed with the direction that the Ohio EPA has ordered, and in fact has not had significant input into the development of the direction, Countywide has faithfully fulfilled the requests and requirements issued by Ohio EPA.

I was also surprised to learn of the Agency's statements contained in the NOV. These statements lack technical justification and are extremely damaging to Countywide. Additionally, many of the alleged justifications directly conflict with data collected, evaluated, and provided to the Agency by Countywide. In my view, the NOV was not justified in light of the lack of technical justification and Countywide's compliance with the requirements of the March Findings and Orders related to this topic, including the evaluation of the engineered components and the submission of a report detailing the evaluation to which the Agency has <u>never</u> responded, <u>never</u> requested follow-up, and <u>never</u> identified any deficiencies with respect to the content of that report.

Several of the "observations" that are listed in your February 21, 2008 NOV letter are specifically refuted in Countywide's recent response to your January 14, 2008 NOV letter or in other information supplied to the Agency by Countywide. To date no response to that correspondence has been received, raising a question regarding the purpose of the February 21st correspondence. Moreover, the February 21, 2008 letter, and the way it was issued and communicated to the media, as well as your contemporaneous letter to Bill Franks, undermines cooperative efforts between Countywide and the Ohio EPA and provides an additional and unnecessary obstacle to overcome in trying to effectively resolve the issues.

As I explained to you in our initial discussions, Countywide does not seek leniency, it seeks a cooperative and collaborative approach to solving the issues based on the science. To date, despite your prior representations to me, the Agency has refused to participate in technical roundtable discussions with Countywide's experts. I view such meetings as integral to developing an appropriate resolution to the issues at Countywide.

The February 21, 2008 Notice of Violation

With respect to the specific conclusion in the February 21 letter, there simply is no direct evidence to support the Agency's "belief" or "conclusion" regarding the status of the liner. The "significant conditions" that are identified in the letter do not support a finding that the liner is damaged. Many of the bullet point observations are just not relevant to a determination that the landfill liner is damaged. For instance:

Bullet 1

Countywide has informed the Agency on numerous occasions that the nature of the movement at the south slope was not deep or rotational in nature and therefore does not suggest potential liner damage. The movement at the south slope was shallow and occurred at the interface of the old 4 to 1 slope and the newer 3 to 1 slope and not a deep failure along the liner as Ohio EPA speculates. Consequently, the citation of "significant movement" does not support a conclusion that the liner is damaged.

Countywide had submitted numerous documents supporting this conclusion. The Agency, has not, however, provided any response to Countywide's submissions nor has it provided Countywide with any calculations or any other basis for its "belief" or "conclusion" that the movement could affect the liner.

Bullet 2

Waste outside the limits is not relevant in a determination of whether or not the liner is damaged in light of the above described mode of movement. The shallow movement explained above could result in the waste outside the limits without any relation to the potential for liner damage. Thus, the citation to waste outside the limits is not relevant to and does not support a conclusion that the liner is damaged.

Bullet 3

In Countywide's January 18, 2008 response to your January 14, 2008 notice of violation, Countywide explained how the placement of the Ohio EPA approved buttress creates a pathway for the movement and/or expression of landfill gas and leachate outside the limits of waste placement. Thus, the language in bullet 3 does support a conclusion that the liner has been damaged.

Bullet 4

Contrary to Ohio EPA's allegations, gas levels in probe M have never been sustained. In fact, the January 2008 sampling shows gas levels in probe M are 0% methane. Further, as described in the January 4, 2008 report "Evaluation of Explosive Gas Migration" (to which Countywide has received no comments or questions), gas that has been periodically identified in this probe is attributable to other sources and pathways. Since 2006, the most likely source and pathway of landfill gas in gas monitoring probe M could be attributed to the shallow waste movement and pathway provided by the buttress as described in Bullet 3. Gas in probe M is not evidence of damage to the liner system.

Bullet 5

Temperature readings obtained 20 feet above the liner are not indicative of temperatures on the liner when the material separating them has the insulating properties of solid waste. The appearance of the waste in the INC-5 hole cited was dry and would be far less able to conduct heat than the materials underlying the landfill. The Agency is well aware that the temperature decreases as the liner is approached, as was identified in the temperature readings taken in INC-3.

Bullet 6

The statement in bullet six is not accurate and indicated a fundamental misunderstanding of the nature the reaction and the nature of the leachate collection system at Countywide. There are not necessarily sustained temperatures of 180 degrees or greater in the leachate. The temperatures to which this bullet is likely referring to are taken in leachate collection pipes which may be measuring the temperature of gas as pointed out in the May 11, 2007 report "Engineered Component Evaluation Study" (to which Countywide has received no comments or questions). In that report, Countywide also pointed out that anaerobic conditions which likely exist at the landfill liner would significantly retard the "aging" process that has been studied when liner is subjected to sustained elevated temperatures.

Bullet 7

The statement in bullet seven is also not accurate. Countywide's response to the January 14, 2008 notice of violation letter explained the distinction between the leachate cleanout extension and the actual leachate collection pipe. The leachate collection and removal data indicates the leachate collection pipe is functioning properly.

<u>Summary</u>

In sum, it appears that the conclusions are based on the Agency's speculation regarding the liner. Moreover, the conclusory statements concerning Countywide's alleged failure to "repair the damage to the affected engineered components or reverse the effects of the temperature, chemistry, and slope failure on these components" are not justified for several reasons. First, the letter does not identify with any specificity the alleged "damage" that needs to be repaired. Second,

Countywide has addressed the slope failure by constructing the Ohio EPA approved buttress. Third, the letter's references to reversing the "effects of temperature and chemistry" is irrelevant in light of the absence of evidence of any damage and the absence of any information pinpointing any effect or impact to the liner. Fourth, Countywide is specifically prohibited from undertaking remedial actions without approval from the Agency.

Despite's its submission over eight months ago, Countywide has yet to receive any comments or questions on the May 25, 2007 "Fire Suppression Plan" that outlined Countywide's proposed remedial actions. At the very least that document should have facilitated dialogue between Countywide and Ohio EPA regarding potential remedial actions. It is disingenuous to suggest that Countywide has "failed to ....reverse the effects of temperature..." when the Ohio EPA has failed to respond to the Fire Suppression Plan discussing potential remedial alternatives.

From day one, Countywide simply asked that the efforts to be taken at Countywide be dictated by what is reasonable and appropriate from a scientific and engineering perspective. Contrary to that request, however, the Agency has refused to permit the participation of some of our experts who have significant landfill experience and significant knowledge about site conditions, and has also refused to participate in technical meetings to discuss and develop final remedial alternatives. In reading the February 21, 2008 letter one has to wonder about its purpose. The technical content of the letter is lacking, no suggested course of action is stated, and in fact no action of any kind is even proposed, yet it was communicated immediately to the media.

I remain convinced that the best way to accomplish a final resolution of the issues, is to work together to develop remedial approaches based on what is scientifically necessary. In my opinion, the community and the company deserve such an approach. To that end, I believe it is imperative that a representative from the U.S. EPA, Bill Franks, you and I meet to discuss how best to proceed in this matter. I request that you facilitate such a meeting. I sincerely hope that such a meeting can take place in the very near future so that all parties can work toward putting this unfortunate event behind us.

Please contact me if you have any questions.

Sincerely,

REPUBLIC SERVICES, INC.

James E. O'Connor

James E. O'Connor
Chairman and Chief Executive Officer