

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of:

MDEQ Docket No. AO-RRD-05-001

Sanicem Landfill

Orion Charter Township and the City of Auburn Hills

Oakland County, Michigan

Respondents:

Daniel P. Fons

J. Fons Company, Inc.

Proceeding under Section 20119 of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.20119.

ADMINISTRATIVE ORDER FOR RESPONSE ACTIVITY

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I. JURISDICTION

This Administrative Order for Response Activity (Order) is issued pursuant to the authority vested in the Michigan Department of Environmental Quality (MDEQ) by Section 20119 of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20119.

II. PARTIES BOUND

This Order shall apply to and be binding upon Daniel P. Fons and the J. Fons Company, Inc., and its successors (Respondents). No change in ownership or corporate status shall in any way alter Respondents' responsibilities under this Order. Respondents shall provide a copy of this Order to all contractors, subcontractors, laboratories, and consultants that are retained to conduct any portion of the response activities to be performed pursuant to this Order within three (3) days of the effective date of such retention. Notwithstanding the terms of any such contract, Respondents are responsible for compliance with the terms of this Order and shall ensure that such contractors, subcontractors, laboratories, and consultants perform all response activities in conformance with the terms and conditions of this Order.

III. DEFINITIONS

3.1 "Day" means a calendar day, unless otherwise specified in this Order.

3.2 "Effective Date" means the date the MDEQ Director issues this Order.

3.3 "Sanicem Landfill Property" or "Property" means the real property legally described in Attachment A, and generally referenced as being located east of Lapeer Road and extends west to Bald Mountain Road at the intersection of Brown and

Lapeer Roads and associated areas in Orion Charter Township and the City of Auburn Hills, Oakland County, Michigan.

3.4 “Sanicem Landfill Facility” or “Facility” means the Property identified in Paragraph 3.3 above and any area, place, or property where a hazardous substance, which originated at the Property and is emanating or has emanated from the Property and is present at concentrations that exceed the cleanup criteria established pursuant to Section 20120a(1)(a) of the NREPA or other requirements provided in Section 20120a(17) of the NREPA, MCL 324.20120a(1)(a) or (17), or the cleanup criteria for unrestricted residential use under Part 213, Leaking Underground Storage Tanks, of the NREPA, has been released, deposited, or disposed of, or has otherwise come to be located.

3.5 “Off-site Property” means any area, place, or property other than the Sanicem Landfill Property where a hazardous substance, which originated at the Property is emanating or has emanated from the Property and is present at concentrations that exceed the cleanup criteria established pursuant to Section 20120a(1)(a) of the NREPA or other requirements provided in Section 20120a(17) of the NREPA, MCL 324.20120a(1)(a) or (17), or the cleanup criteria for unrestricted residential use under Part 213, Leaking Underground Storage Tanks, of the NREPA, has been released, deposited, or disposed of, or has otherwise come to be located.

3.6 “IRA” means interim response activity as defined in Section 20101(1)(u) of the NREPA and the Part 201 Administrative Rules, and specifically provided in Paragraph 5.1(b) and Paragraphs 5.2 (a-f) and (h-n) of this Order.

3.7 “MDAG” means the Michigan Department of Attorney General, its successor entities, and those authorized persons or entities acting on its behalf.

3.8 “MDEQ” means the Michigan Department of Environmental Quality, its successor entities, and those authorized persons or entities acting on its behalf.

3.9 “Order” means this Administrative Order for Response Activity, No. AO-RRD-05-001, issued to Daniel P. Fons and the J. Fons Company, Inc., to perform response activities relating to the Sanicem Landfill Facility.

3.10 “Part 201” means Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101 et seq., and the Part 201 Administrative Rules.

3.11 “Part 201 Rules” means the administrative rules promulgated under Part 201 of the NREPA and any rules promulgated in the future pursuant to Part 201.

3.12 “Parties” means Daniel P. Fons, the J. Fons Company, Inc., and the State.

3.13 “Respondents” means Daniel P. Fons, individually, and the J. Fons Company, Inc., a Michigan Corporation.

3.14 “Investigation” means an investigation of the Off-site Property for methane that meets the requirements of Paragraph 5.1(a) and Paragraph 5.2 (g) of this Order.

3.15 “RRD” means the Remediation and Redevelopment Division of the MDEQ and its successor entities.

3.16 “State” and “State of Michigan” mean the Michigan Department of Attorney General and the Michigan Department of Environmental Quality, and any authorized representatives acting on their behalf.

3.17 “Submissions” means all plans, reports, schedules, and other submittals that Respondents are required to submit to the MDEQ pursuant to this Order.

3.18 Unless otherwise stated herein, all terms used in this Order, which are defined in Part 3, Definitions, of the NREPA, MCL 324.301; Part 201 of the NREPA, MCL 324.20101 et seq.; or the Part 201 Rules shall have the same meaning in this document as in Parts 3 and 201 of the NREPA and the Part 201 Rules.

IV. FINDINGS OF FACT AND DETERMINATIONS

4.1 The Property was first developed in the early 1960s and was originally operated as Silver Bell Ski Lodge (SBSL). The developers of the SBSL accepted fill material including industrial waste from local auto manufacturing facilities and dumped it on the southwest portion of the Property. The Property then became known as the Silver Bell Ski Lodge Dump.

4.2 In 1969, the Property was purchased by the Sanicem Company, a Michigan co-partnership which included Daniel P. Fons.

4.3 The J. Fons Company acquired a license under 1965 PA 87 on May 23, 1969, to utilize 15 acres on the northern or Orion Township portion of the Property as a landfill.

4.4 On May 5, 1970, the J. Fons Company received a license to extend its landfill operations to an additional 44 acres on the southern or City of Auburn Hills (former Pontiac Township) portion of the Property.

4.5 The J. Fons Company continued to operate the Sanicem Landfill until June 7, 1978, when the MDEQ issued a Cease and Desist Order due to poor management of the landfill, including refuse being unlawfully dumped into the water

table, reintroduction of leachate back into the landfill, leachate outbreaks, and odors resulting from either leachate or methane gas emissions. The landfill was subsequently shut down by the MDEQ on June 30, 1978.

4.6 Records kept by the J. Fons Company indicate that the amount of waste disposed of daily at the landfill during its operation was approximately 7,000 to 8,000 cubic yards.

4.7 Daniel P. Fons was personally involved and intimately participated in the operation of the landfill, including disposal of waste that directly resulted in releases of hazardous substances into the environment that is the subject of this Order. According to records contained in MDEQ files, Daniel P. Fons was president of the J. Fons Company from 1969 through July 1997. In a deposition conducted on March 10, 1998, Daniel P. Fons stated that he was “. . . running the J. Fons Company . . .,” and that “As president, I was responsible for everything.”

4.8 Respondent J. Fons Company purchased the Property from the Sanicem Company on August 14, 1981. Respondent Daniel P. Fons purchased a portion of the Property from Respondent J. Fons Company in 1996.

4.9 In 1995 and 1996, the MDEQ conducted limited remedial investigations and interim response activities at the Facility. The activities conducted included installation of soil borings and monitor wells, soil and groundwater sample collection and analyses, monitor well repair and replacement, drum removal, geophysical survey, and methane vent replacement.

4.10 The Sanicem Landfill Property is a “facility” as that term is defined in Section 20101(1)(o) of the NREPA, MCL 324.20101(1)(o).

4.11 "Hazardous substances," as that term is defined in Section 20101(1)(t) of the NREPA, MCL 324.20101(1)(t), detected in the soils and groundwater at the Facility include arsenic, lead, phenanthrene, and methane gas.

4.12 "Releases" or "threatened releases" within the meaning of Sections 20101(1)(bb) and 20101(1)(ii) of the NREPA have occurred at the Sanicem Landfill Property.

(a) During investigation activities conducted by the MDEQ in 1995 and 1996, it was determined that the groundwater, including the leachate, at the Facility discharged into a wetland and that analysis of the leachate seeps along the landfill perimeter indicated lead levels exceeded drinking water standards.

(b) During recent redevelopment activities on the Property, it became known that methane, generated by decomposition of the waste in the landfill, was present at potentially explosive levels at and beyond the Property boundary.

(c) Soil investigations in the summer of 2003 to the present have indicated the presence of high levels of methane in and around buildings located north of the Property.

(d) Further, investigations conducted by the MDEQ and others to date have demonstrated that methane continues to migrate from the Property in multiple directions, but the full extent of methane migration has not been defined.

4.13 Respondents are persons that are liable within the meaning of Section 20126(1) of the NREPA, MCL 324.20126(1).

(a) Respondents are former operators of the Facility.

(b) Respondent J. Fons Company is a Michigan corporation incorporated April 1, 1956, in part, "To carry on the trade or business of operating land fills (dumps)"

(c) Respondents are former owners of the Facility.

(d) The hazardous substances present at the Facility are consistent with what was released by the Respondents.

(e) Respondents were operators of the Facility at the time of disposal of hazardous substances at the Facility and are responsible for an activity causing the release of hazardous substances into the environment.

4.14 The MDEQ previously notified the Respondents by Demand Letters dated April 21, 1995, February 2, 1999, and October 31, 2000, of their liability for the Facility and requested that they perform response activities at the Facility in accordance with state and federal laws. The MDEQ also notified the Respondents of the MDEQ's intent to spend funds at the Facility if they did not perform these response activities.

4.15 On June 7, 2002, the Brown Road Group, LLC (BRG), purchased a portion of the Sanicem Landfill Property from Daniel P. Fons. The BRG is the current owner of the Property, which is being developed for light industrial or commercial use.

4.16 On June 12, 2002, an Administrative Order by Consent was entered into by the State, Daniel P. Fons, Alice M. Fons, the J. Fons Company, and the BRG. This order provided for reimbursement of the MDEQ's past response activity costs and release of the liens placed on a portion of the Property by the MDEQ.

4.17 In order to facilitate the redevelopment of the Facility, in March 2002, the MDEQ agreed to provide the BRG, the current property owner, the opportunity to conduct any additional response activities that were necessary at the Facility. The MDEQ also reserved the right, in the event that the BRG could not or would not comply with such requests, to take any other necessary action to conduct or to require other parties to conduct the response activities. To date, after requests by both the United States Environmental Protection Agency (USEPA or EPA) and the MDEQ,¹ the BRG has not conducted the solicited response activities at the Facility, prompting the MDEQ

¹ MDEQ letter dated October 20, 2003.

to undertake certain response activities with public funds and again directly seek the Respondents' compliance with Part 201 and the Part 201 Rules.

4.18 A final demand letter dated May 20, 2004, requested that Daniel P. Fons commit to undertake the necessary and appropriate response activities at the Facility; reimburse State past response activity costs which have been incurred since June 12, 2002, and future response activity costs incurred by the State for responding to the release or threatened release of hazardous substances at the Facility; and resolve the payment of civil fines for failure to comply with state and federal laws. He was also notified that if he failed to resolve the above matters with the State voluntarily, the State would pursue any legal remedies available under state and federal laws.

4.19 The actual or threatened releases of hazardous substances at or from the Facility may pose an imminent and substantial endangerment to the public health, safety, or welfare, or the environment within the meaning of Section 20119 of the NREPA.

(a) Sample data information collected to date indicates that methane in soil under or near the buildings identified in Attachment C² is at, or greater than, a concentration of 1.25 percent by volume of soil gas (25 percent of the lower explosive limit).

(b) Potentially explosive concentrations of methane may accumulate in buildings, structures, or other confined spaces due to concentrations of methane in near surface soils of the residential and commercial/industrial areas surrounding the Property.

4.20 In order to protect public health, safety, and welfare, and the environment, and to abate the danger or threat caused by the release or threat of release of hazardous substances from the Facility, it is necessary and appropriate that

² The information on ownership is based on the Oakland County on-line database and is presumed accurate as of the time of determination. However, the MDEQ does not warranty the accuracy of this

response activities be performed at the Off-site Property. Section V (Order) of this Administrative Order specifies the response activities that must be performed at the Off-site Property.

On the basis of these Findings of Fact, the MDEQ has determined that entry of this Order is necessary to expedite the performance of effective response activities and that the entry of this Order is in the public interest.

V. ORDER

Based upon Section IV (Findings of Fact and Determinations), Respondents are hereby ordered to perform the response activities and other actions set forth in this Order.

5.1 Performance Objectives

(a) Investigation of Off-site Property for Methane

The performance objective of the Investigation is to assess the environmental conditions of the Off-site Property, including gathering data to supplement existing data, in order to adequately characterize the nature, extent, movement, and fate of methane at the Facility. The Investigation shall include, but not be limited to, the following:

(i) Defining the nature and extent of methane emanating from the Property and present in soil at or above a concentration of 1.25 percent by volume in soil gas.

(ii) Defining the risks to the public health, safety, and welfare, and to the environment and natural resources at the Off-site Property, including, but not limited to, the identification of any buildings, structures, or other confined spaces that may accumulate methane.

information, and the Respondents are responsible for obtaining correct information regarding interests in any property necessary to implement this Order.

(iii) Determining the relevant exposure pathways at the Off-site Property.

(iv) Defining the amount, concentration, hazardous properties, environmental fate, persistence, location, and mobility of methane present at the Off-site Property, including a correlation of weather data with all soil gas measurements.

(v) Defining the extent to which methane has migrated or is expected to migrate from the Property, including the potential for methane to migrate along preferential pathways, including storm drains and sewer systems. This includes, but is not limited to, evaluation of migration of methane through or along the storm water drainage system serving the Property and any buildings adjacent to the Property, or where methane has migrated.

(vi) Defining the geology of Off-site Property, including the presence of more permeable lithologic zones or layers and the degree to which they may more readily facilitate the migration of methane from the Property.

(b) Interim Response Activities

The performance objectives of the Interim Response Activities on the Off-site Property are to: (1) select appropriate IRA that adequately address methane on the Off-site Property to protect the public health, safety, and welfare, and the environment consistent with Part 201 and (2) demonstrate and document the effectiveness of the IRA as provided in Paragraph 5.2 of this Order, that, when fully implemented:

(i) is protective of human health, safety, and welfare, and the environment, (ii) will achieve the cleanup criteria specified in Part 201 for methane, and (iii) ensures the effectiveness and integrity of the IRA.

5.2 Response Activities

(a) Seek Access

Within thirty (30) days of the Effective Date of this Order, Respondents shall begin seeking access to the properties and any structures present thereupon identified in Attachment B.³

(b) Provide Notice

Within thirty (30) days of the Effective Date of this Order, Respondents shall provide notice in accordance with R 299.5522(2) of the Part 201 Rules to the property owners for the properties listed in Attachment C that hazardous substances have migrated onto their property.

(c) Daily Monitoring

Within thirty (30) days of the Effective Date of this Order, Respondents shall initiate an assessment of the indoor presence of methane in each of the structures on the properties listed in Attachment C. Respondents shall perform daily indoor methane monitoring throughout each structure as described in Attachment D, unless permanent methane monitors/alarms are already present in the structure or until such time as permanent methane monitors/alarms are installed. During the performance of the daily methane monitoring, the Respondents shall also:

(i) Follow the procedures outlined in the Methane Exceedence Response Plan included in Attachment E of this Order.

(ii) Within forty (40) days of the Effective Date of this Order, and weekly thereafter, provide a report to the MDEQ of the daily indoor methane sampling results, protocol performed as required in this Paragraph and Attachment D, and any actions taken in accordance with the Methane Exceedence Response Plan.

(iii) If an owner of a structure does not consent to the performance of indoor methane monitoring, develop and implement a plan that will protect an occupant of the structure from the accumulation of methane in the structure.

(d) Offer Methane Monitors

Within thirty (30) days of the Effective Date of this Order, Respondents shall commence offering and installing indoor continuous methane monitors with a visible,

³ The information on ownership is based on the Oakland County on-line database and is presumed accurate as of the time of determination. However, the MDEQ does not warranty the accuracy of this

audible, and automatic 24-hour notification alarm system for methane exceedences, with backup power for the alarms to owners of the structures on the properties listed in Attachment C, unencumbered by any conditions on the owners of the structures. Implementation of the installation of the methane monitors and alarm system shall include:

(i) An assessment of each structure for the determination of an adequate number of methane monitors and alarms, and proper locations to provide sufficient coverage for the detection of methane accumulation and the protection of the structure and inhabitants within.

(ii) System communication with an entity capable of providing 24-hour alarm monitoring services (i.e., home and business security monitoring company) to respond to alarm conditions automatically and contact the persons identified in the Indoor Methane Monitoring Plan's Emergency Response Plan.

(iii) Development of an Indoor Methane Monitoring Plan which includes the assessment performed as required in Attachment D of this Order, a description of the type of monitors/alarms installed, verification of installation, an Operation and Maintenance Plan in accordance with the manufacturer's written specifications, and an Emergency Response Plan describing what actions occupants should take if an alarm signals the presence of methane that is consistent with the provisions in Attachment E of this Order. Respondents must document that qualified personnel have provided orientation training on the use of and response to the methane monitors and alarms to, at a minimum, the appropriate building occupants to assure that one or more trained people will be present in the building or structure to respond to a monitor alarm during the time the building or structure is occupied.

(iv) Within five (5) days after the completion of the indoor methane monitor/alarm installation in a structure, the Indoor Methane Monitoring Plan shall be provided to the owner and lessee of the structure, and the Emergency Response Plan shall be provided to the local fire marshal. The Indoor Methane

information, and the Respondents are responsible for obtaining correct information regarding interests in any property necessary to implement this Order.

Monitoring Plan for each structure shall be provided to the MDEQ in the progress report.

(e) Install Methane Monitors

Respondents shall complete installation of monitors and alarms in all structures, and development and distribution of Indoor Methane Monitor Plans for each structure on the properties listed in Attachment C within ninety (90) days of the Effective Date of this Order, unless otherwise modified in writing by the MDEQ.

(i) The Respondents shall ensure operation and maintenance of the methane monitor and alarm systems.

(ii) If an owner of a structure does not consent to the installation of indoor methane monitors, Respondents shall develop and implement a plan that demonstrates that the structure will be protected from the accumulation of methane.

(f) Progress Reports

Within sixty (60) days after the Effective Date of this Order, Respondents shall submit a Progress Report to the MDEQ for review, and monthly thereafter. The Progress report for each month shall be submitted by the 15th day of the following month. The Progress Report shall document how the performance objectives of Paragraph 5.1(a) and (b) of this Order are being met, including:

(i) A description of the objectives of the response activities and how they were or will be achieved;

(ii) A detailed description of the response activities undertaken, including all data that is relevant to the conclusions drawn. Information supplied shall include sufficient documentation of the nature and extent of contamination to support any conclusions about the effectiveness of the response activity;

(iii) A schedule for implementation of the activities proposed for the next month;

(iv) All data collected during the month, organized in tabular format. Boring logs, as-built diagrams, and all sample locations identified on appropriately scaled site diagrams shall be provided. Data tables of greater than two pages shall also be provided electronically in spreadsheet format;

(v) Location of additional structures identified pursuant to Paragraph 5.2(l) of this Order, concentrations of methane detected, and identification of any mitigation activities.

(vi) Reporting of any other response activities pursuant to this Order as requested by the MDEQ.

(g) Investigation

Within sixty (60) days of the Effective Date of this Order, the Respondents shall submit a work plan for the Investigation (Investigation Work Plan) that will meet the performance objective in Paragraph 5.1(a) and will include:

(i) The status of securing site access agreements. Provided in Attachment B is a list of properties and owners for which access is determined to be necessary for the initial investigation, and Respondents may need to seek access to additional properties to meet the performance objectives of Paragraph 5.1(a).

(ii) Methodology of drilling and other investigative techniques designed to:

1) Sample the subsurface soil types, including securing samples for laboratory analysis of grain size and other appropriate information and processes.

2) Designate initial sample locations based on the known locations of methane migration.

3) Provide criteria for continuing additional “step out” iterative sample locations during the Investigation to fully delineate the horizontal and vertical extent of all areas of methane migration. These additional sample locations shall be chosen and monitor points installed as soon as possible as the investigation progresses.

4) Provide sampling locations of sufficient depth to delineate the vertical extent of methane and other landfill gas contamination in the entire area between the ground surface and the water table (i.e., the vadose zone).

5) Provide for repeated and periodic sampling of various subsurface intervals for soil gas concentrations of methane at each monitor point. Monitor points shall include interval sampling and shall be constructed to

provide for isolated sample collection and sample intervals based on the depth of boring and lithologic variability. Unless approved by the MDEQ, intervals shall be not greater than 25 feet.

6) Provide for measurement and documentation of soil gas pressure or vacuum, atmospheric conditions during sampling (i.e., barometric pressure, temperature, precipitation, and wind), and ground cover conditions (i.e., snow-covered and paved areas).

(iii) A provision, due to the capricious nature of methane in soil gas, for further investigation if it is discovered that areas where the extent of methane had been considered delineated no longer demonstrate complete delineation of the full vertical or horizontal extent of methane above Part 201 criteria.

(iv) A schedule for implementation, including the submittal of an Investigation Report for MDEQ approval. The Investigation shall begin within ten days of MDEQ approval of the Investigation Work Plan, unless otherwise approved in writing by the MDEQ. The Investigation Report shall summarize the steps taken to comply with the Order, including a summary of all the data and information collected, methodologies used, and a delineation of the extent of methane.

(h) Vapor Control

Within four (4) months of the Effective Date of this Order, Respondents shall commence offering, installing, and operating a vapor control system to owners of the structures on the properties listed in Attachment C, unencumbered by any conditions on the owners of the structures. The vapor control system selected and installed will prevent the infiltration into and the accumulation of methane in these structures and meet the performance objective in Paragraph 5.1(b).

(i) Installation of the vapor control systems for the structures on the properties listed in Attachment C shall be completed within seven (7) months of the Effective Date of this Order, unless otherwise modified in writing by the MDEQ.

(ii) The Respondents shall ensure operation and maintenance of the vapor control systems.

(iii) If an owner of a structure does not consent to the installation of a vapor control system, develop and implement a plan that demonstrates that methane will not infiltrate and accumulate in the structure.

(i) North End Soil Gas Treatment

Within six (6) months of the Effective Date of this Order, Respondents shall submit to the MDEQ a design to install and operate on an ongoing basis a soil gas treatment system that will capture and prevent migration of methane that exceeds Part 201 criteria off the north end of the Sanicem Landfill Property, unless another entity is already operating and will continue to operate a soil gas treatment system that can be demonstrated to meet the provisions of this paragraph.

(i) Respondents shall commence installation of a soil gas treatment system in this paragraph within thirty (30) days of written MDEQ approval of the soil gas treatment design for the north side of the Property.

(j) Soil Venting Work Plan

Within three (3) months of MDEQ approval of the Investigation Report, Respondents shall submit to the MDEQ a soil venting work plan (SV Work Plan) to design, install, and operate, on an ongoing basis, a soil venting system to mitigate unacceptable levels of methane and any other landfill gas on Off-site Property in all areas where methane is detected in the soils at or above a concentration of 1.25 percent by volume in soil gas.

(k) Install Soil Venting System

Within thirty (30) days of MDEQ approval of the SV Work Plan, commence installation and operation of the MDEQ-approved soil venting system(s) in accordance with the schedule in the approved SV Work Plan.

(l) If, at any time during the pendency of this Order, information is obtained that methane is present at or above a concentration of 1.25 percent by volume in soil gas at a property that has a structure other than those properties listed in Attachment C, that structure and the property on which it is located shall be included in the above response activities described in Paragraphs 5.2(a) through (f) and (h) as follows:

(i) Within five (5) days of discovery of the above conditions, the provisions of Paragraphs 5.2(a)-(c);

(ii) Within fifteen (15) days of discovery, the provisions of Paragraph 5.2(d);

(iii) Within thirty (30) days, the provisions of Paragraph 5.2(e);

(iv) Within forty (40) days of discovery, the provisions of Paragraph 5.2 (h), and the controls shall be in place within ninety (90) days of discovery.

(m) Other Response Activities

Implement any other response activities determined by the MDEQ to be necessary to achieve the performance objectives of this Order.

(n) Continue Interim Response Activities

The Respondents shall continue to implement the response activities pursuant to this Order, including the Progress Reports, until: (i) Respondents demonstrate to the satisfaction of the MDEQ that the cleanup criteria for methane have achieved criteria on the Off-site Property without the use of engineering controls and (ii) the Respondents have entered into a legal agreement with the MDEQ that addresses, at a minimum, the long-term implementation of obligations under this Order, including the provision of a financial assurance mechanism, or otherwise approved and agreed to in writing by the Director of the MDEQ.

VI. ACCESS

6.1 Upon the Effective Date of this Order and to the extent access to the Facility and any associated property is owned, controlled by, or available to the Respondents, the MDEQ, its authorized employees, agents, representatives, contractors and consultants, upon presentation of proper credentials and providing reasonable notice to Respondents, shall have access at all reasonable times to the Facility, and any associated property for the purpose of conducting any activity to which access is required for the implementation of this Order or to otherwise fulfill any

responsibility under federal or state law with respect to the Facility, including, but not limited to:

- (a) Monitoring response activities or any other activities taking place pursuant to this Order at the Facility;
- (b) Verifying any data or information submitted to the MDEQ;
- (c) Conducting investigations relating to contamination at or near the Facility;
- (d) Obtaining samples;
- (e) Assessing the need for or planning or conducting response activities at or near the Facility;
- (f) Assessing compliance with requirements for the performance of monitoring, operation and maintenance, or other measures necessary to assure the effectiveness and integrity of the interim response activities;
- (g) Inspecting and copying non-privileged records, operating logs, contracts, or other documents;
- (h) Communicating with Respondents' Project Coordinator or other personnel, representatives, or consultants for the purpose of assessing compliance with this Order;
- (i) Determining whether the Facility is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to this Order; and
- (j) Assuring the protection of public health, safety, and welfare, and the environment.

6.2 To the extent that the Facility is owned or controlled by persons other than Respondents, Respondents shall use their best efforts to secure from such persons access for the Parties and their authorized employees, agents, representatives, contractors, and consultants. Within forty (40) days of the Effective Date of this Order and thereafter in the progress reports required in Paragraph 5.2(f) of this Order, Respondents shall provide the MDEQ with a copy of each access agreement requested and/or secured pursuant to this section and a status report on all

pending access agreement(s). This status report shall include the name, address, and telephone number of the owner and of the principal contact for the owner. For purposes of this paragraph, "best efforts" includes, but is not limited to, providing compensation acceptable to the owner or taking judicial action to secure such access. If judicial action is required to obtain access, Respondents shall provide documentation to the MDEQ that such judicial action has been filed in a court of appropriate jurisdiction no later than five (5) days after Respondents' have filed the action. If Respondents have not been able to obtain access within sixty (60) days after filing judicial action, Respondents shall promptly notify the MDEQ of the status of their efforts to obtain access and provide an assessment of how any delay in obtaining access may affect the performance of response activities for which the access is needed.

6.3 If, during the investigation, sampling data indicates the presence of soil gas methane at a property at a concentration of 1.25 percent of total soil gas or greater, and if access to the adjacent property has not already been secured, the Respondents shall request access to the adjacent property within five (5) days of discovery.

6.4 Any lease, purchase, contract, or other agreement entered into by Respondents, which transfers to another person a right of control over the Facility, shall contain a provision preserving for the MDEQ or any other person undertaking the response activities and their authorized representatives the access provided under this Section VI (Access) and Section VIII (Record Retention/Access to Information).

6.5 Any person granted access to the Facility where the response activities are to be performed by Respondents under this Order shall comply with all applicable health and safety laws and regulations.

6.6 Notwithstanding any provision of this Order, the MDEQ shall retain all of its information gathering, inspection, enforcement, and access authorities under Part 201 and any applicable statute or regulation.

VII. QUALITY ASSURANCE/SAMPLING

7.1 Quality Assurance Sampling and Analytical Requirements

Sampling and analytical activities shall be developed and performed in accordance with the EPA's "EPA Requirements for Quality Assurance Project Plans," EPA QA/R-5, March 2001; "Guidance for Quality Assurance Project Plans," EPA QA/G-5, December 2002; and "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," American National Standard ANSI/ASQC E4-1994. Respondents shall utilize recommended sampling methods and analytical methods and analytical detection levels specified in "RRD Operational Memorandum No. 2, Sampling and Analysis," dated October 22, 2004. Respondents shall utilize the MDEQ 2002 Sampling Strategies and Statistics Training Materials for Part 201 Cleanup Criteria to determine the number of samples collected for the purposes of verifying cleanup. Respondents shall comply with the above documents or documents that supercede or amend these documents, or may utilize other methods demonstrated by Respondents to be appropriate, if approved by the MDEQ in writing.

7.2 All sampling and analysis conducted pursuant to this Order shall follow the methodologies specified in Paragraph 7.1; the rules promulgated under Part 31, Water Resources Protection, of the NREPA; and guidance provided by the MDEQ on sampling locations, collection methods, parameters, detection limits, and analytical methods.

7.3 Respondents, or their consultants or subcontractors, shall provide the MDEQ a seven-day (7-day) notice prior to any sampling activity to be conducted pursuant to this Order to allow the RRD Project Coordinator, or his or her authorized

representative, the opportunity to take split or duplicate samples, to take additional samples, or to observe the sampling procedures. In circumstances where a seven-day (7-day) notice is not possible, Respondents, or their consultants or subcontractors, shall provide notice of the planned sampling activity as soon as possible to the RRD Project Coordinator and explain why earlier notification was not possible. If the RRD Project Coordinator concurs with the explanation provided, Respondents may forego the seven-day (7-day) notification period for that particular sampling event.

7.4 Respondents shall provide the MDEQ with the results of all environmental sampling and other analytical data generated regarding the Facility in the performance or monitoring of any requirement under this Order included in Part 31; Part 111, Hazardous Waste Management, of the NREPA; Part 115, Solid Waste Management, of the NREPA; Part 201; Part 211, Underground Storage Tank Regulations, of the NREPA; Part 213; or other relevant authorities. Said results shall be included in the next submitted progress report pursuant to Paragraph 5.2(f) of this Order.

7.5 For the purpose of quality assurance monitoring, Respondents shall assure that the MDEQ and its authorized representatives are allowed access to any laboratory that is used by Respondents in implementing this Order.

VIII. RECORD RETENTION/ACCESS TO INFORMATION

8.1 Respondents and their representatives, consultants, and contractors shall preserve and retain, during the pendency of this Order and for a period of ten (10) years after completion of the response activities required by this Order, all records, electronic documents or databases, sampling or test results, charts and other documents relating to historical hazardous substance disposal, treatment or handling activities at the Facility or that are maintained or generated pursuant to any requirement of this Order. After the ten-year (10-year) period of document retention, Respondents and their successors shall obtain the MDEQ's written permission prior to

the destruction of such documents and, upon request, Respondents and/or their successors shall relinquish custody of all documents to the MDEQ. Respondents' request shall be accompanied by a copy of this Order and sent to the following address:

Chief
Remediation and Redevelopment Division
Michigan Department of Environmental Quality
P.O. Box 30426
Lansing, Michigan 48909-7926

8.2 Upon request, Respondents shall provide to the MDEQ copies of all documents and information within their possession, or within the possession or control of its employees, contractors, agents, or representatives relating to the response activities at the Facility or to the implementation of this Order, including, but not limited to, sampling, analysis, chain of custody records, manifests, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the response activities. Respondents shall also, upon request, make available to the MDEQ, upon reasonable notice, Respondents' employees, contractors, agents, or representatives with knowledge of the relevant facts concerning the performance of the response activities.

8.3 If Respondents submit to the MDEQ documents or information that Respondents believe are entitled to protection as provided for in Section 20117(10) and (11) of the NREPA, Respondents may designate in that submittal the documents or information they believe is entitled to such protection. If no such designation accompanies the information when it is submitted to the MDEQ, the information may be made available to the public by the MDEQ without further notice to Respondents. Information described in Section 20117(11)(a) through (h) of the NREPA shall not be claimed as confidential or privileged by Respondents. Information or data generated under this Order shall not be subject to Part 148, Environmental Audit Privilege and Immunity, of the NREPA, MCL 324.14801 et seq.

IX. EMERGENCY RESPONSE

9.1 If during or in the course of Respondents' performance of response activities pursuant to this Order, an act or the occurrence of an event causes a release or threat of release of a hazardous substance at or from the Off-site Property or causes exacerbation of existing contamination at the Off-site Property, and the release, threat of release, or exacerbation poses or threatens to pose an imminent and substantial endangerment to public health, safety, or welfare, or the environment, Respondents shall immediately undertake all appropriate actions to prevent, abate, or minimize such release, threat of release, exacerbation, or endangerment and shall immediately notify the MDEQ Project Coordinator. In the event of his or her unavailability, Respondents shall notify the Pollution Emergency Alerting System (PEAS) at 1-800-292-4706. In such an event, any actions taken by Respondents shall be in accordance with all applicable health and safety laws and regulations.

9.2 Within ten (10) days of notifying the MDEQ of such an act or event, Respondents shall submit a written report setting forth a description of the act or event that occurred and the measures taken or to be taken to mitigate any release, threat of release, exacerbation, or endangerment caused or threatened by the act or event and to prevent recurrence of such an act or event. If an act or event causes a release, threat of release, or exacerbation, or poses or threatens to pose an imminent and substantial endangerment to public health, safety, or welfare, or the environment, the MDEQ may: (a) require Respondents to stop response activities at the Facility for such period of time as may be needed to prevent or abate any such release, threat of release, exacerbation, or endangerment; (b) require Respondents to undertake any actions that the MDEQ determines are necessary to prevent or abate any such release, threat of release, exacerbation, or endangerment; or (c) undertake any actions that the MDEQ determines are necessary to prevent or abate such release, threat of release, exacerbation, or endangerment.

X. PROJECT COORDINATORS AND COMMUNICATIONS/NOTICES

10.1 Within thirty (30) days of the Effective Date of this Order, Respondents shall designate and provide contact information to a project coordinator who shall have primary responsibility for overseeing the performance of the response activities at the Facility and other requirements specified in this Order for Respondents. The MDEQ Project Coordinator shall be Benjamin Mathews, who can be contacted as follows:

Mr. Benjamin Mathews, Project Coordinator
Southeast Michigan District Office
Remediation and Redevelopment Division
Michigan Department of Environmental Quality
27700 Donald Court
Warren, Michigan 48092-2793
Telephone: 586-753-3816
Facsimile: 586-753-3801

The MDEQ Project Coordinator will be the primary designated representative for the MDEQ for the Facility. Whenever notices are required to be given or progress reports, information on the collection and analysis of samples, sampling data, work plan submittals, approvals or disapprovals, or other technical submissions are required to be forwarded by one party to the other party under this Order, or whenever other communications between the Parties are needed, such communications shall be directed to the MDEQ Project Coordinator at the address listed above. If any party changes its designated Project Coordinator, the name, address, and telephone number of the successor shall be provided to the other party, in writing, as soon as practical.

10.2 The MDEQ may designate other authorized representatives, employees, contractors, and consultants to observe and monitor the progress of any activity undertaken pursuant to this Order.

10.3 This paragraph does not relieve Respondents from other reporting obligations under the law.

XI. SUBMISSIONS AND APPROVALS

11.1 All Submissions required by this Order shall comply with all applicable laws and regulations and the requirements of this Order, and shall be delivered to the MDEQ in accordance with the schedules set forth in this Order. All Submissions delivered to the MDEQ pursuant to this Order shall include a reference to the Sanicem Landfill Facility and MDEQ Reference No. AO-RRD-05-001. Any Submission delivered to the MDEQ for approval also shall be marked "Draft" and shall include, in a prominent location in the document, the following disclaimer:

Disclaimer: This document is a DRAFT document that has not received final approval from the Michigan Department of Environmental Quality (MDEQ). This document was prepared pursuant to a governmental administrative order. The opinions, findings, and conclusions expressed are those of the authors and not those of the MDEQ.

11.2 Upon review of any Submission for MDEQ approval, the RRD Division Chief will in writing: (a) approve the Submission; (b) reject the Submission as insufficient if the Submission lacks any information necessary or required by the MDEQ to make a decision regarding approval; or (c) deny approval of the Submission. If the MDEQ denies approval of the Submission, it will provide Respondents with a complete and specific statement of the conditions or requirements necessary to obtain approval.

11.3 Within thirty (30) days after receipt of a rejection or denial of approval of a Submission from the MDEQ pursuant to Paragraph 11.2(b) or (c), Respondents shall resubmit the Submission to the MDEQ for review and approval. The time period for resubmission may be extended by the MDEQ. The MDEQ will review the resubmitted Submission in accordance with the procedure stated in Paragraph 11.2. If the MDEQ does not approve the Submission upon resubmission, the MDEQ will so advise Respondents, and the MDEQ will deem Respondents to be in violation of this Order.

11.4 If the initial submittal of any Submission contains significant deficiencies such that the Submission is not in the judgment of the MDEQ a good faith effort by Respondents to deliver an acceptable Submission that complies with Part 201 and this Order, the MDEQ will notify Respondents of such and will deem Respondents to be in violation of this Order. Any other delay in the delivery of a Submission, noncompliance with a Submission or attachment to this Order, or failure to cure a deficiency of a Submission in accordance with this Section XI, may also place Respondents in violation of this Order. Violation of this Order may subject Respondents to penalties for non-compliance as provided in Section XIV (Penalties for Non-Compliance) of the Order or to other remedies available to the State.

11.5 Any MDEQ-approved or other Submission and attachments to Submissions which comply with this Order shall be considered part of this Order and are enforceable pursuant to the terms of this Order. If there is a conflict between the requirements of this Order and any Submission or an attachment to a Submission, the requirements of this Order shall prevail.

11.6 An approval shall not be construed to mean that the MDEQ concurs with any of the conclusions, methods, or statements in any Submission or warrants that the Submission comports with law.

11.7 Informal advice, guidance, suggestions, or comments by the MDEQ regarding any Submission provided by Respondents shall not be construed as relieving Respondents of their obligation to obtain any formal approval required under this Order.

XII. COMPLIANCE WITH OTHER LAWS

All actions required to be taken pursuant to this Order shall be undertaken in accordance with the requirements of all applicable or relevant and appropriate state

and federal laws and regulations, including Parts 31 and 201, laws relating to occupational safety and health, and other state environmental laws. Issuance of this Order does not affect the Respondents' responsibility to comply with all of the requirements of Part 201 at the Sanicem Landfill Facility. Other agencies may also be called upon to review the conduct of response activities under this Order.

XIII. AMENDMENTS/MODIFICATIONS/INCORPORATION BY REFERENCE

This Order may only be amended in writing by signature of the Director of the MDEQ. Any required Submission or response activity required pursuant to this Order may be modified only by the RRD Division Chief or his or her authorized representative.

XIV. PENALTIES FOR NON-COMPLIANCE

Pursuant to Sections 20119(4) and 20137(1) of the NREPA, MCL 324.20119(4) and MCL 324.20137(1), Respondents are advised that if, without sufficient cause, Respondents violate or fail to satisfactorily comply with this Order, or any portion thereof, Respondents may be: (a) fined in a civil action brought in circuit court up to twenty-five thousand dollars (\$25,000.00) for each day in which such violation occurs or such failure to comply continues; and/or (b) subject to liability for exemplary damages in the amount of three (3) times the amount of any costs incurred by the State of Michigan as a result of Respondents' violation or failure to comply with this Order.

XV. DISCLAIMERS

The State of Michigan, including the MDEQ and its employees, agents and consultants, shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondents, their officers, employees, agents, or contractor(s) in carrying out activities pursuant to this Order. The State of Michigan,

including the MDEQ, shall not be held as a party to any contract entered into by Respondents or their officers, employees, agents, or contractor(s) in carrying out activities pursuant to this Order.

XVI. RESERVATION OF RIGHTS BY THE MDEQ

16.1 The MDEQ expressly reserves all rights and defenses that it may have, including the MDEQ's right both to disapprove of work performed by Respondents and to request or order Respondents to perform response activities in addition to those detailed in this Order. In addition, the MDEQ reserves the right to undertake response activities at any time and to perform any and all portions of the response activities required by this Order that Respondents have failed or refused to perform properly or promptly. The MDEQ, in cooperation with the MDAG, reserves any and all rights to take any enforcement action pursuant to Part 201, or any other available legal authority, including the right to seek injunctive relief, monetary costs, damages or penalties, or punitive damages for any violation of law or of this Order.

16.2 Nothing in this Order shall be deemed to limit the power and authority of the MDEQ or the State of Michigan to take, direct, or order all appropriate action to protect the public health, welfare, or the environment; or to prevent, abate, or minimize a release or threatened release of hazardous substances, pollutants, contaminants, or hazardous wastes on, at, or from the Facility.

XVII. RESPONDENTS' INTENT TO COMPLY WITH THIS ORDER

In accordance with Section 20119(3) of the NREPA, MCL 324.20119(3), Respondents are advised that within thirty (30) days of the Effective Date of this Order, they are required to indicate to the MDEQ in writing whether or not they, either individually or collectively, intend to comply with this Order to:

Mr. Andrew W. Hogarth, Chief
Remediation and Redevelopment Division
Michigan Department of Environmental Quality
P.O. Box 30426
Lansing, Michigan 48909-7926

XVIII. OPPORTUNITY TO CONFER

Respondents may request, by orally notifying the MDEQ Project Coordinator within seven (7) days after receipt of this Order, a conference with the MDEQ to discuss the correctness of any factual determinations upon which the Order is based, the applicability of this Order to Respondents, and the appropriateness of any action Respondents are ordered to take. If Respondents request a conference, such conference shall be held on July 7, 2005, at 1:30 p.m., in the John McCauley Conference Room, Constitution Hall, 4th Floor, South Tower, 525 West Allegan Street, Lansing, Michigan. At any conference held pursuant to Respondents' request, Respondents may appear in person or through an attorney or other representative for the purpose of orally presenting any objections, defenses, or contentions that Respondents may have regarding this Order, provided that such presentations shall not be a part of the administrative record upon which this Order is based.

XIX. SEVERABILITY

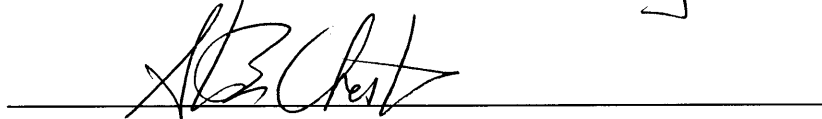
The provisions of this Order shall be severable. If any provision of this Order is declared by a court of competent jurisdiction to be inconsistent with state law, and therefore unenforceable, the remaining provisions of this Order shall remain in full force and effect.

XX. EFFECTIVE DATE

This Order is effective on the date of its issuance.

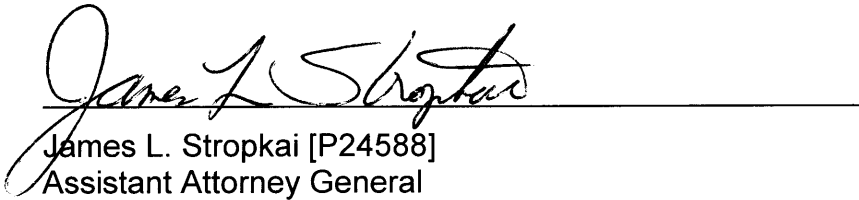
IT IS SO ORDERED BY:

Issued at Lansing, Michigan, this 17 day of June, 2005.

A handwritten signature in black ink, appearing to read "S. E. Chester", is written over a horizontal line.

Steven E. Chester, Director
Michigan Department of Environmental Quality

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "James L. Stropkai", is written over a horizontal line.

James L. Stropkai [P24588]
Assistant Attorney General
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General

Date: June 13, 2005

Attachment A
Property Description

EXHIBIT 1

The following is a description Real Estate located in the County of Oakland, State of Michigan, containing one hundred forty (140) acres, more or less.

Parcel A

A parcel of land located in and being a part of the Southeast 1/4 of Section 35, Town 4 North, Range 10 East, Orion Township, and a part of the Northeast 1/4 of Section 2, Town 3 North, Range 10 East, Pontiac Township, Oakland County, Michigan, and being more particularly described as follows:

Commencing at the Southeast corner of said Section 35 and thence extending North 88 degrees 30 minutes West 1354.07 feet; thence South 01 degree 16 minutes 30 seconds West 379.30 feet; thence North 88 degrees 44 minutes West 1343.30 feet; thence North 02 degrees 10 minutes 30 seconds East 384.80 feet to the South 1/4 corner of said Section 35; thence South 88 degrees 30 minutes East 42.00 feet; thence North 03 degrees 21 minutes East 831.00 feet; thence South 88 degrees 21 minutes East 1877.10 feet; thence along a curve concave to the South Radius 400.00 feet whose long chord bears South 58 degrees 21 minutes East 400.00 feet; thence South 28 degrees 21 minutes East 183.79 feet; thence along a curve concave to the North Radius 300.00 feet whose long chord bears South 58 degrees 21 minutes East 300.00 feet; thence South 88 degrees 21 minutes East 10.00 feet to the East line of said Section 35; thence South 05 degrees 30 minutes East 317.00 feet to the point of the beginning.

09-35-400-005 - SE 1/4 Sec 35
14-02-200-001 - NE 1/4 Sec 2

Parcel B

Part of Northeast Fractional 1/4 Section 2, Town 3 North, Range 10 East, beginning at point distant North 2603.87 feet and East 91.42 feet from center of Section, thence North 88 degrees 53 minutes 00 seconds East 650 feet, thence South 32 degrees 45 minutes 50 seconds West 490.04 feet, thence South 40 degrees 34 minutes 40 seconds West 133.25 feet, thence South 88 degrees 53 minutes 00 seconds West 302.38 feet, thence North 00 degrees 28 minutes 00 seconds East 100 feet, thence North 00 degrees 16 minutes 00 seconds West 400 feet to beginning.

14-02-200-002

Parcel C

Part of Northeast Fractional 1/4 Section 2, Town 3 North, Range 10 East, beginning at point on Easterly line of Lapeer Road, North 1496.2 feet and East 83.89 feet from center of Section, thence North 01 degree 10 minutes 00 seconds East 261.96 feet, thence North 00 degrees 28 minutes 00 seconds East 343.20 feet, thence North 88 degrees 53 minutes 00 seconds East 302.38 feet, thence North 40 degrees 34 minutes 40 seconds East, 133.25 feet, thence North 32 degrees 45 minutes 50 seconds East 490.04 feet, thence North 88 degrees 53 minutes 00 seconds East 400 feet, thence South 01 degree 08 minutes 00 seconds East 400 feet, thence South 01 degree 09 minutes 00 seconds East 704.73 feet, thence South 88 degrees 53 minutes 00 seconds west 1237.19 feet to beginning.

14-02-200-003

09-35-400-004

Parcel D

East 1/2 of the Northeast Fractional 1/4 of Section 2, Town 3 North, Range 10 East, except beginning at East 1/4 corner, thence North 89 degrees 59 minutes 30 seconds West 1372.14 feet, thence North 00 degrees 42 minutes 30 seconds West 633.17 feet, thence South 89 degrees 59 minutes 30 seconds East 1379.97 feet, thence South 633.12 feet to beginning, Also except beginning at point distant North 1390 feet and North 72 degrees 10 minutes 30 seconds West 356 feet and North 41 degrees 21 minutes 30 seconds West 404 feet from East 1/4 corner, thence South 57 degrees 03 minutes 30 seconds West 295 feet, thence North 32 degrees 56 minutes 30 seconds West 200 feet, thence North 57 degrees 03 minutes 30 seconds East 265.41 feet, thence South 41 degrees 21 minutes 30 seconds East 202.18 feet to beginning, Also except beginning at point distant North 633.12 feet from East 1/4 corner, thence North 89 degrees 59 minutes 30 seconds West 544.50 feet, thence North 400 feet, thence South 89 degrees 59 minutes 30 seconds East 544.50 feet, thence South 400 feet to beginning.

14-02-200-011

Attachment B

List of Properties for which access is initially required for the preliminary phase of the Investigation pursuant to Paragraph 5.2(a) of the Order:

| <u>Property Address</u> | <u>Property Sidwell Number</u> | <u>Listed Owner Information</u> |
|-------------------------|--------------------------------|--|
| 50 Northpointe | 09-35-402-002 | Harold Newton 50 Northpointe Drive Orion, MI 48359 |
| 78 Northpointe | 09-35-402-008 | James Bell 78 Northpointe Drive Orion, MI 48359 |
| 87 Northpointe | 09-35-401-003 | Burton-Katzman Development Co., Inc. 30100 Telegraph Road Bingham Farms, MI 48025 |
| 134 Northpointe | 09-35-402-005 | W.E. Healy Associates, Inc. 134 Northpointe Drive Orion, MI 48359 |
| 143 Northpointe | 09-35-401-004 | Liz Hubbard Properties LLC 143 Northpointe Drive Orion, MI 48359 |
| 162 Northpointe | 09-35-402-006 | Beachum & Roesser Development Corp. 30100 Telegraph Road, Suite 366 Bingham Farms, MI 48025 |
| 179 Northpointe | 09-35-401-005 | Dailey Development Corporation, LLC 179 Northpointe Drive Orion, MI 48359 |
| 190 Northpointe | 09-35-402-007 | PBK Land Company 27670 Groesbeck Hwy. Roseville, MI 48066 |
| 200 Northpointe | 09-35-400-041 | Creative Properties, Inc. 200 Northpointe Drive Orion, MI 48359 |
| 250 Kay Industrial Dr. | 09-35-401-006 | CPD Properties, Inc. 38700 Van Dyke, Suite 200 Sterling Heights, MI 48312 |

Attachment B (Continued)

| | | |
|---|---------------|--|
| 100 Ellen Drive | 09-35-452-001 | 100 Ellen Drive LLC 1 Ajax Drive, Suite 102 Madison Heights, MI 48071 |
| (Based on DEQ file information, presumed new owner) | | Premier Self Storage LLC 830 Kirts Blvd., Suite 100 Troy, MI 48084 |
| 101 Ellen Drive | 09-35-451-001 | 101 Ellen Drive LLC 1 Ajax Drive, Suite 102 Madison Heights, MI 48071 |
| 110 Ellen Drive | 09-35-452-002 | 110 Ellen Drive LLC 1 Ajax Drive, Suite 102 Madison Heights, MI 48071 |
| 111 Ellen Drive | 09-35-451-002 | Sorensen Industries, Inc. 245 Chestnut Circle Bloomfield Hills, MI 48304 |
| 139 Ellen Drive | 09-35-451-003 | D & R Orion LLC 139 Ellen Drive Lake Orion, MI 48360 |
| 140 Ellen Drive | 09-35-452-003 | 140 Ellen Drive LLC 1 Ajax Drive, Suite 102 Madison Heights, MI 48071 |
| 151 Ellen Drive | 09-35-451-004 | 151 Ellen Drive LLC 1 Ajax Drive, Suite 102 Madison Heights, MI 48071 |
| 4435 Lapeer Road | 14-02-100-016 | Archland Property II, LP C/O Saputo Inc. 4435 Lapeer Auburn Hills, MI 48326 |
| 4477 Lapeer Road | 14-02-100-010 | Amoco Corp. C/O BP America Inc. Tax Dept. P.O. Box 1548 Warrenville, IL 60555 |

The information on ownership is based on the Oakland County on-line database and is presumed accurate as of the time of determination. However, the MDEQ does not warranty the accuracy of this information, and the Respondents are responsible for obtaining correct information regarding interests in any property necessary to implement this Order.

Attachment C

List of Properties for which available information to date indicates soil gas methane concentration of 1.25 percent of total soil gas or greater appear to be present, and IRA pursuant to Paragraph 5.2 of this Order are required.

| <u>Property Address</u> | <u>Property Sidwell Number</u> | <u>Listed Owner Information</u> |
|---|--------------------------------|--|
| 78 Northpointe | 09-35-402-008 | James Bell 78 Northpointe Drive Orion, MI 48359 |
| 134 Northpointe | 09-35-402-005 | W.E. Healy Associates, Inc. 134 Northpointe Drive Orion, MI 48359 |
| 143 Northpointe | 09-35-401-004 | Liz Hubbard Properties LLC 143 Northpointe Drive Orion, MI 48359 |
| 162 Northpointe | 09-35-402-006 | Beachum & Roesser Development Corp. 30100 Telegraph Road, Suite 366 Bingham Farms, MI 48025 |
| 179 Northpointe | 09-35-401-005 | Dailey Development Corporation, LLC 179 Northpointe Drive Orion, MI 48359 |
| 250 Kay Industrial Dr. | 09-35-401-006 | CPD Properties, Inc. 38700 Van Dyke, Suite 200 Sterling Heights, MI 48312 |
| 100 Ellen Drive | 09-35-452-001 | 100 Ellen Drive LLC 1 Ajax Drive, Suite 102 Madison Heights, MI 48071 |
| (based on DEQ file information, presumed new owner) | | Premier Self Storage LLC 830 Kirts Blvd., Suite 100 Troy, MI 48084 |
| 101 Ellen Drive | 09-35-451-001 | 101 Ellen Drive LLC 1 Ajax Drive, Suite 102 Madison Heights, MI 48071 |

Attachment C (Continued)

| | | |
|-----------------|---------------|--|
| 110 Ellen Drive | 09-35-452-002 | 110 Ellen Drive LLC 1 Ajax Drive, Suite 102 Madison Heights, MI 48071 |
| 111 Ellen Drive | 09-35-451-002 | Sorensen Industries, Inc. 245 Chestnut Circle Bloomfield Hills, MI 48304 |
| 139 Ellen Drive | 09-35-451-003 | D & R Orion LLC 139 Ellen Drive Lake Orion, MI 48360 |
| 140 Ellen Drive | 09-35-452-003 | 140 Ellen Drive LLC 1 Ajax Drive, Suite 102 Madison Heights, MI 48071 |
| 151 Ellen Drive | 09-35-451-004 | 151 Ellen Drive LLC 1 Ajax Drive, Suite 102 Madison Heights, MI 48071 |

The information on ownership is based on the Oakland County on-line database and is presumed accurate as of the time of determination. However, the MDEQ does not warranty the accuracy of this information, and the Respondents are responsible for obtaining correct information regarding interests in any property necessary to implement this Order.

ATTACHMENT D

Procedures for Determining the Indoor Presence of Methane

If natural gas is used in the structure(s), or is available in the area, the gas company should be contacted (occasional methane problems are simply a leaky supply line, and the gas company's findings are necessary to dismiss any potential natural gas leaks from distribution lines).

Information on the construction and integrity of the structure should be recorded. This includes but is not limited to:

- Age of building;
- Type, thickness, and integrity of the foundation substrate (e.g., fill, gravel, or bedrock);
- Condition of basement walls and floor;
- Entry points of utilities (e.g., water, gas, electric, and septic lines);
- Location and construction of floor drains;
- Remodeling changes;
- Crawlspace locations;
- Tanks, vaults, and other features that may could be points of methane entry; and
- Location and well characteristics (e.g., age, depth, and construction details) for any private water supply wells.

The most common means of gas entry into the structure is through cracks or gaps in the building materials, along buried utilities (e.g., sewer and water lines), or as a dissolved component of water. Most methane will enter from soil through the foundation and accumulate in the upper areas of the lowest floor level of a structure (e.g., basement ceiling or crawl space).

Monitoring should be done with doors and windows closed to avoid dilution with the outside atmosphere. All fans, including HVAC units, ceiling fans, and exhaust fans, must be turned off to obtain a representative sample. Any prior attempt to ventilate the structure should be noted and sufficient time allowed for the atmosphere to stabilize prior to any monitoring.

Any potential sources of volatile organic compounds (e.g., gas cans, lawnmowers, and paint cans) should be identified and removed since these can interfere with some types of portable gas meters and cause false readings.

Methane monitoring should be performed using a portable gas meter properly calibrated for methane and capable of measuring methane as a percent of the LEL (0-100%), full percentage in air (0-100%), or parts per million. When comparing to the regulatory standards for methane, care must be observed not to misunderstand the display measurements. The following formulas can be used to convert between the various measured readings.

- $\%CH_4$ (in air) $= \%CH_4$ (LEL) \times 0.05
 $= CH_4$ (ppm) \times 1% / 10,000 ppm
- $\%CH_4$ (LEL) $= \%CH_4$ (in air) \times 20
 $= CH_4$ (ppm) \times 1% / 10,000 ppm \times 20
- CH_4 (ppm) $= \%CH_4$ (in air) \times 10,000 ppm / 1%
 $= (\%CH_4$ (LEL) \times 0.05) \times 10,000 ppm / 1%

Typically, the selection of the appropriate meter will depend on whether the sample is being pulled from oxygen-deficient or oxygen-enriched atmosphere, and by the presence of other combustible gases in the sample. In all instances, each meter should be regularly calibrated to methane and serviced according to manufacturer's instructions.

Monitoring locations in a structure should include:

- All points of entry, such as floor drains, sewer and water pipe entry points, sumps, foundation cracks, cement joints, electrical and other utility entry points, or other conduits;
- Confined spaces, such as crawl spaces;
- Any bare or uncovered floor areas;
- Upper air (within 12 inches of the ceiling) in all occupied and unoccupied areas of the lowest floor level, and especially interior rooms where ventilation rates may be lower than other areas where methane could accumulate (if gas concentrations exceed 5,000 ppm the local Fire Department Chief should be notified);
- Any accessible joint in natural or liquefied petroleum gas piping (if a leak is noted, inform the resident);
- In cases of finished basements, check electrical outlets or other openings; and
- In cases of private water supply systems, a simple field check for methane can be performed. While this method is not considered a standard sampling method, it will provide an indication if methane is present in the groundwater. The method involves filling one-half of a gallon container with water. The container is capped and agitated for a specific time interval (i.e., one minute); then the headspace is measured with a portable gas meter. If you collect the sample from a faucet, the water should be sampled as close to the well as possible. Ideally, samples should be taken from a faucet prior to the holding (pressure) tank or treatment system. Be sure to completely clear the plumbing system and allow for a "fresh" water sample to be taken; the water should run for 10 to 30 minutes prior to collecting the sample. Always sample the cold water line. If you collect the sample from a sink spigot, the aerator should be removed before taking the sample.

Observations (both outside and indoors) should be recorded on a very simple sketch map that depicts all testing locations. The sketch map should include enough detail to describe the site conditions and any anomalies. Record the highest and lowest readings observed at each location. Sustained readings may indicate an inflow of methane from a concentrated source.

Record the date, time, location, and atmospheric conditions during sampling (i.e., barometric pressure, temperature, precipitation, and wind) and ground cover conditions (i.e., snow-covered and paved areas).

Attachment E

Indoor Methane Exceedence Response Plan

If at any time during the performance of the initial and daily assessments of the indoor presence of methane as provided in Paragraph 5.2(c) of this Order the concentration of methane meets or exceeds 0.5 percent by volume in indoor air (10 percent of the Lower Explosive Limit), the following response measures shall be taken:

1. Immediately notify the local fire marshal or, if unavailable, other fire or emergency response official.
2. Take whatever emergency response measures determined necessary by the local fire marshal or any other state or local public safety or emergency response official, including, but not limited to, ventilating the structure by opening doors and windows, arranging for the disconnection of electric or gas service, and evacuation or relocation of building occupants.
3. Notify Benjamin Mathews, MDEQ; building owner; and lessee, if applicable, within 24 hours of discovery of an indoor methane exceedence.

Emergency Contacts

City of Auburn Hills

Fire Department: 248-370-9461
Fire Marshal John Burmeister: 248-364-6755

Orion Township

Fire Department: 248-373-4660
Fire Marshal Bob Smith: 248-373-4660

MDEQ

Benjamin Mathews 586-753-3816