

Comments of Landsong Environmental, Inc. and Ty Incorporated relative to issues raised by residents in the letter of June 20, 2011 addressed to Chief Operating Officer Darnell Brown.

In order to allow for ease of review, Landsong Environmental and TY have inserted their comments in italics and bold print below each relative paragraph or section.

****This response is not intended to be all-inclusive of all comments that can be made by the Simich Entities****

Ronald Brady
4285 Skylane Drive
Cleveland, Ohio 44109

June 20, 2011

Darnell Brown, Chief Operating Officer
Cleveland City Hall
601 Lakeside Ave.
Cleveland, Ohio 44114

Dear Mr. Brown:

The residents of Skyview Estates and Gino Lane Condominiums are writing this letter in reference to the proposed relocation of an unnamed stream, strip mining, and the placement of a C&D landfill in a wetland area adjacent to our neighborhood.

Simich Entities reply:

The long term intent is to re-open a C&D landfill and expand the size of the landfill by relocating streams. Those proposed activities are subject to separate and independent permitting requirements by the Health Department, Ohio EPA and the Army Corps of Engineers. Landsong Environmental will not proceed with those activities unless it receives the requisite permits from those entities.

Currently, the Simich Entities only desire to remove dirt from the site to be used for construction. The removal of dirt governed by the mining permit issued by the Ohio Department of Natural Resources is the only issue presently before the Board of Zoning

Appeals.

Furthermore, "strip mining" is an improper characterization of the request of the Simich Entities. Rather, surface mining is requested, and no "strip mining" is intended to be accomplished.

Additionally, no wetland area will be affected by the undertaking of surface mining. In fact, the removal of dirt has been specifically designed to avoid any impacts to wetlands in order to avoid triggering the need for a wetland permit from the Army Corps of Engineers and/or Ohio EPA. It is also worth noting that the Simich Entities have restored wetlands which were previously damaged by a prior operator of the property site which has resulted in a net improvement to the ecological condition of the site.

This is a violation of Section 404 of the Clean Water Act. All of the above proposals by Bradley Road Inc., Ty, Inc., and Landsong Environmental violate provisions of the Clean Water Act which the USACE regulates.

Simich Entities reply:

As stated above, the surface mining activities associated with removal of dirt will not impact wetlands and, therefore, will not trigger any wetland permitting requirements. Permitting requirements associated with the re-routing of streams are not connected to the surface mining activities. If Landsong Environmental decides to pursue expansion of the C&D landfill area by re-routing streams it will comply with all permitting requirements administered by the Army Corps of Engineers and/or Ohio EPA. The unnamed stream and wetlands that parallel Skylane Drive (OEPA photo # 022299) are compromised and polluted by a massive soil displacement and soil erosion that has impacted this wetland area for the past 20 years.

Simich Entities reply:

The writer is correct that soil erosion issues have resulted in storm water and surface water impacts. However, those impacts were the direct result of the landfill remaining in an idle state. Since the Simich Entities have been involved with pursuit of surface mining operations as well as by pursuing the long term goal of re-opening the landfill, the Company has taken numerous steps to improve site conditions. Working directly with the appropriate regulatory agencies, the Simich Entities restored the channel to its original and impeded condition. As a result, water is more properly flowing through the streambeds and the potentiality of stagnant water remaining has been significantly decreased.

Bradley Road, Inc., never received a permit to use this land as a C&D landfill by the Board of Zoning Appeals, City of Cleveland.

Simich Entities reply:

The Board of Zoning Appeals does not issue a license to operate C&D landfills. Under Ohio

law, the responsibility to issues a C&D license resides with the local Board of Health with oversight from Ohio EPA on a statewide basis. A C&D license was properly issued for operation of a C&D landfill at this location for a number of years. When the license was not renewed, the C&D landfill temporarily ceased operation.

Please compel Bradley Road, Inc., to remove the fill material from the proximity of this stream and wetlands. Further, we would like Bradley Road Inc. to fully restore the stream and wetlands to its prior condition of 1989. This should include the stabilization of the slope, seeding, grading, and plantings in the area.

Simich Entities reply:

The ultimate goal of the Simich Entities is to do precisely that which are requested of the residence: stabilization of the slope, seeding, grading and plantings in the area to the benefit of the residence. It is important to note that stabilization of the slope is not possible without the relocation of the unnamed stream.

Please note the following areas of concern that the residents of these neighborhoods site for our opposition to the proposals submitted to various agencies. These proposals will destroy the environment surrounding our homes and impact the Cuyahoga River Valley.

Also note that we used USACE published criterion for evaluating the above proposed activities in these wetlands.

Aesthetics

The relocation of the unnamed stream nearest Skylane Dr., the proposed 8.5 acre ***strip mine*** and the simultaneous creation of a C&D landfill will destroy approximately 2,651 linear feet of wetlands adjacent to Gino Lane and Skylane Dr.

Simich Entities reply:

The Simich Entities' plans do not include destruction of wetlands adjacent to Gino Drive and Skylane Drive. Any such impacts would require a permit(s) from the Army Corps of Engineers and/or Ohio EPA.

The proposed surface mining activities (dirt removal which is the only issue presently before the Board of Zoning Appeals), do not involve any modification to the streams.

Separate authorizations will be needed to re-open the landfill and expand operations by relocating streams. The City and citizens will have ample opportunity during those permitting processes to raise concerns regarding water quality. Any modification of the existing stream by way of relocation will be addressed by mitigation in compliance with all governmental regulations. If relocation of the stream is permitted by the appropriate regulatory authorities, the relocation will relieve the existing erosion condition to the benefit of the residents on Skylane Drive, resulting in soil stabilization. Further,

relocation of the stream will allow for natural filtration to be engineered into the site at a considerable cost which will improve the water quality of surface water leaving the site. ,

All impacts to existing streams associated with reopening the C&D landfill will be reviewed by the Army Corps of Engineers and Ohio EPA as part of their Clean Water Act 404/401 permitting process. The applicable regulations require the applicant to minimize impacts and provide sufficient mitigation to result offset any such impacts.

How do you mitigate poor water quality by moving an already polluted stream, shortening it, and completely destroying the existing wetlands?

Ty, Inc., and Landsong Environmental, Inc., in its application to the City of Cleveland and the OEPA ask:

1. "A soil barrier layer is not needed for the proposed area as it is situated over emplaced waste that meets the requirements of OAC 3745-400-9 (A)."
2. "A leachate collection system is not required for the proposed area as it is situated over emplaced waste that meets the requirements of OAC 3745-40007 (2)."

Simich Entities Reply:

The above referenced comment by the residents relates to the C&D license application filed by the Simich Entities currently under review. It does not relate to the surface mining permit which has already been issued by the Ohio Department of Natural Resources.

These two statements are false statements of facts. On Oct. 15, 2004, Bradley Road Land Dev. Corp.'s attorney, Mark Schlachet, stated to the City of Cleveland "these proposed areas beginning at the stream moving west never received C&D material." Bradley Rd., Inc., has not been permitted to dump since the revocation order dated January 24, 2003.

Simich Entities Reply:

This comment by residents also does not relate to the surface mining permit. The quoted statement is taken from a 2004 C&D license application filed by Bradley Road which is no longer current.

Adjacent to this stream, Landsong Environmental proposes to mine 500,000 cubic yards of soil in 8.5 acres of between Spring Road Creek and the unnamed creek along Skylane Dr. This destroys the remaining 1441 linear feet of wetlands along spring Road Creek

Simich Entities reply.

Landsong Environmental's surface mining permit does not include wetland impacts. If the surface mining activities did impact existing wetlands, Landsong Environmental would be required to obtain a Section 404/401 wetland permit from the Army Corps of Engineers and/or Ohio EPA. Prior to issuing a surface water permit associated with the mining

permit, Ohio EPA confirms through a wetland delineation that the proposed activities will not result in wetland impacts.

Professor Alfonso Castro, Harvey Mudd College developed *A Mathematical Model for the Effects of Strip Mining in Urban Areas*. His model cites 233,000 negative affects. He states "strip mining erodes the soil, scars the landscape, damages roads, homes, and destroys wildlife." Concerning the landscape, visitors and commuters to Cleveland will see a strip mine, and landfill for the next 15 years. What a way to add to the panoramic view of Cleveland! What a way to welcome tourists to Cleveland "The City of Trees."

Concerning air pollution, he states "dust particles from haul roads, stockpiles are all sources of air pollution. There is air quality deterioration due to strip mining soil, gravel, and alluvial silt."

Strip mines in urban areas cause "erosion, sedimentation, disruptive drainage patterns, and water pollution." These activities will destroy all 2,561 linear feet of the existing wetlands.

This urban strip mine will serve to "degrade the productive capacity of the neighbor's adjacent land."

The stream runoff/water discharge from the strip mine will increase the amount of PH, iron and suspended solids by 10 fold. This overburden will flow directly into the Cuyahoga River thru the culvert Spring Road Creek north of Bradley Road. These proposed activities on these parcels just accelerate the pollution.

Simich Entities reply:

Environmental regulations prohibit the discharge of soil into the Cuyahoga River. The regulations also prohibit water quality impacts associated with pH, iron and suspended solids. All surfaced mining activities are governed by an NPDES storm water permit issued by Ohio EPA that would require Landsong Environmental y institute best management practices to prevent such water quality impacts. Wetlands

This 1.3 acre wetland has essential value to our neighborhood. The destruction of this ecosystem violates our property rights in using our land. These proposals will have an adverse impact upon our properties.

Simich Entities reply:

As set forth above, no wetland impacts are proposed in connection with the surface mining activities. State and Federal regulations prohibit such impacts without a permit.

There is no way this project can restore, enhance, create or preserve this ecosystem.

These three projects, stream moving, st structure this echo systems using Pro at an adverse effect upon rip mine, and C&D land fill are in direct opposition to your own mission statement. It is also in direct opposition to the stated goals for the Cuyahoga River

as articulated by the Cuyahoga Valley Initiative, the Cleveland Metro Parks, the OEPA, Ohio division of Natural Resources and The National Park Service. All of these agencies are partners in the clean-up of the Cuyahoga River.

Simich Entities reply:

As set forth above, federal and state regulations for impacts to streams require any person proposing an impact to obtain a permit. The regulations do not allow a permit to be issued unless the regulatory authority determines that all water quality impacts will be minimized and proper mitigation provided to offset such impacts. The residents will have ample opportunity to raise concerns associated with the value of the streams and wetlands during the permitting process. However, no such impacts are proposed in connection with the surface mining activities.

This will be the 5th landfill within 1500 feet of our homes., The 6th with 2 miles, and the 20th with 4 miles of our homes. They are all within 500 feet of the Cuyahoga River or tributaries. All of these landfills have caused irreparable damage to the environment in the lower Cuyahoga River Valley.

The wetland east of Skylane Drive was destroyed in 1998 by Bradley Road, Inc., without authorization from any agency.

Erosion and Accretion

On July 5, 1991, Bradley Rd., Inc., began the C&D land fill adjacent to Skylane Drive. All of the initial activity was confined to the west side of Skylane Drive. Bradley Road never installed a compacted soil liner for the landfill. In fact, they received a variance from the City of Cleveland to not have a liner. This added to the erosion still taking place in 2011. They also began grading the slope to a 1:1 ratio. They were repeatedly cited for this infraction by the OEPA and the Cleveland Health Department. Both agencies cite a 4:1 ratio. This also added to the erosion.

Simich Entities reply:

While the Simich Entities are certainly not responsible for the activities of others 20 years ago, the Simich Entities will, again, be addressing the multiple issues associated with erosion by way of undertaking slope stabilization as above reference. Apparently, the City of Cleveland and the Ohio Environmental Production Agency permitted such activities at the time of undertaking of same in 1991 when Bradley Rd, Inc. was properly authorized to undertake landfill activities at the property site. Certainly, given the status of the objections by the residents, the City of Cleveland and the OEPA will be keeping a hard eye on all activities which in any way may detrimentally affect the environmental condition at the property site and, for that matter, as they may affect the adjacent residents' properties.

The City of Cleveland administration granted permission for a 1:1 slope via Robert Staib on May 13, 1998 provided they use a product called geo-grid to reinforce the 1:1 slope. Tensar

Corp. drew up plans to use this system to reinforce the slopes. The City of Cleveland approved the plans on August 15, 1997. The Geo-grids were never installed.

On April 18, 2003, George Aboumarad of Geo-Sci, Inc., cited evidence of surface erosion and massive soil displacement along Skylane Drive.

The Malfeasance, misfeasance, and nonfeasance of Bradley Road, Inc., and the City of Cleveland administration at the time, interfered with, and continues to interfere with, the adequate drainage for the site area of the unnamed creek and Spring Road Creek. It obstructs damages and adversely affects existing drainage. It causes stagnant water to form. It has created slope stability problems. This landfill continues to cause detrimental erosion and sedimentation to the streams and the Cuyahoga River ecosystem. On June 14, 2004, the erosion caused stones to partially block Spring Road Creek. On July 17, 2004, large stones blocked the drain pipes in the area. Bradley Road, Inc., has had 13 years to fix these problems and has chosen to ignore this environmental disaster.

Simich Entities reply:

As previously stated, the Simich Entities, with the full knowledge and approval of regulatory agencies, have implemented corrective measures in order to remedy the stagnant water situation and so that the stream can properly drain. While it has not assume the problems associated with prior operator, it has recognize them and a considerable cost has undertaken actions which the prior operator could not either financially afford to undertake and/or failed to accomplish.

Furthermore, the applicable environmental regulations will not allow a lowering of water quality without appropriate mitigation for those impacts. All work performed that impacts the existing streams and wetlands will be performed in full compliance with those regulations.

Consideration of Property Ownership

The Bradley Road, Inc., Ty Inc., and Landsong Environmental proposed strip mine, creek re-positioning and subsequent C&D land fill will adversely affect our property. There will be a very strong presence of fugitive dust in and around our homes for the next 15 years. The strip mine and C&D landfill is a constant eyesore. The values of our home will depreciate. We will have to listen to the noise of heavy construction equipment for the next 15 years. Our homes will again be infested with large American Cockroaches, rats, mice, and ants. We will not be able to open our windows due to the dust for the next 15 years. The aesthetic value of our yards will be zero.

Simich Entities reply:

1. A fugitive dust permit requiring Ty Incorporated to operate within the applicable laws has already been obtained. The permit contains requirements for Landsong Environmental to appropriately control any fugitive dust emission associated with its operations.

2. The Simich Entities believe that the steps taken to remove stagnant water from the site as well as the other site improvements directly benefit the residents by eliminating conditions conducive to pests.

3. ***As to noise, the Simich Entities have voluntarily agreed to limit hours and activities to reduce the impact on the surrounding neighborhood. In addition, they have offered to create a fund associated with addressing any impact (including cleaning of exteriors of homes) should there be any impact whatsoever.***

In short, we will not be able to enjoy our properties due to the stream movement, strip mine, and subsequent landfill.

Economics

Professors Alan Reichart, Michael Small, and Sunil Mohanty of Cleveland State University's Finance Department writing in the *American Real Estate Journal* cite in their study that property values drop 5.5% to 7.3% adjacent to strip mines and landfills. This investment loss will continue for the 15 year project. The neighbors all want to ask for a 7.3% reduction in taxes, for our loss. That translates into approximately \$130.00 dollar loss per house in tax revenue a year. For the 275 homes located around Gino Lane and Skylane Drive this amounts to a 36,000 dollar loss per year and a \$550,000 dollar loss in tax revenue over 15 years.

The 275 properties must bear the cost of power washing homes of fugitive dust at least twice a year. We will also have to bear the cost of pesticides for cockroaches and ants. There is the cost of mice and rat traps to control these vermin. We will have to run air conditioning units due to the fugitive dust for longer than normal periods.

To the residents of the Gino Lane neighborhood and the Skylane Drive neighborhood it is impossible to calculate the medical costs to the residents if these projects are approved. The environmental costs of the project cleanup will be staggering.

Water Quality

Bradley Road Landfill's management practices of their existing site have seriously degraded the water quality of the Spring Road Creek and the other unnamed creek.

On August 17, 1993, the Cleveland Dept. of Health tested the water in the landfill and found the runoff exceeded Ohio water quality standards for copper, iron, lead, zinc, and NH₃ by up to 246 times. PH was measured at 9.7. This continues today 20 years later.

On October 24, 1996, Bradley Road, Inc., was again granted an exception from the installation of a leachate collection system by the city administration.

In the summer of 1998, Bradley Road, Inc., paid *Independence Excavating, Inc.*, to install two retention basins/sediment ponds to control runoff and leachate. These basins were required by the City Health Department to re-open the closed landfill. The City Administration said they were not required thereby contradicting the Health

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Department. On November 7, 2002, Robert Engels of *Acer environment* writes "the detention basin and sediment pond have never been used." Today one is filled with stagnant water and Cat-O-Nine Tails and the other is used by trespassers to test ATV's and 4 wheel drive vehicles.

All of the run-off and leachate continues to degrade the water quality of the two streams and the Cuyahoga River.

On July 16, 1999, Steve Tuckerman, of the OEPA wrote "leachate at the site exceeds all legal limits of contamination." On July 16, 1999, *Connecticut Reserve* designed a leachate plan for the landfill. The plan was never implemented. However, a tank was built. Inspection of this tank on October 28, 2002, revealed the tank was incapable of collecting leachate. All of this waste water drained directly into the two creeks and directly into the Cuyahoga River.

The new operators of the landfill have asked the City and State for an exemption of a liner and leachate collection system for the new landfill area. This will result in over 40 acres of land draining sediment, leachate and toxic chemicals into the two streams.

I fail to see how moving a polluted stream and the destruction of 2651 linear feet of wetlands plus another 1000 feet of already destroyed wetlands on the east side of Skyline Drive will improve the quality of the of the two streams and the Cuyahoga River.

Given the past history of this landfill and the recent request of the new operators concerning soil liners and a leachate collection system, this proposal makes no sense for our environment.

Simich Entities reply:

The Simich Entities intend to address each of the conditions referenced above. If the surface mining operations do not proceed and/or the landfill operations are not recommenced, there will not be sufficient funds to maintain the site or implement corrective measures.

The City of Cleveland appears to recognize any citizen-claimed negative environmental conditions which might arise from permitting the Simich Entities to commence initial operations are rather thoroughly addressed in the Letter of Intent which was exhaustively reviewed by the City and considered acceptable by the City by its execution prior to the most recent appearance before the Board of Zoning Appeals.

Environmental Concerns

The proposed moving of the unnamed stream and the proposed strip mine to remove 500,000 cubic yards of soil, gravel, and clay silt over 8.5 acres under Permit #10428 will expose the Cuyahoga Valley Aquifer to the air. *Summit! Drilling and Hull Assoc.* both document finding "wet sand" at the 27-32 ft. levels in their respective bore holes. The water in this aquifer flows at 3-10 gpm up to 250 gpm depending upon where you drill in the Cuyahoga Valley. This aquifer can travel horizontally at a minimum rate of 0.16 feet/day. As cited by your

December, 2009 report: *Former Harshaw Chemical Site
Remedial Investigation Report
Revision I
December, 2009*

According to your USACE report, HCC dumped "yellowcake" (uranium oxide) at the corner of Bradley and Jennings Roads. This area is designated as area IA07/0U05. This 5.5 acre site was the disposal area of unknown types of related wastes and materials. This "yellowcake" is found in the extreme southern portion of the acreage. This "yellowcake" is found to a depth of 27 feet. These radiological isotopes sit on the shale bedrock that is described as "fractured and fissile." Surveys of this area detected elevated radiological contamination in the fill area. This southern area contains "grossly contaminated building debris."

We are concerned that Ty, Inc.'s, and Landsong Environmental's removal of 500,000 cu. Yds. of soil, sand, gravel, and alluvial clay silt will provide or create an open ground water pathway in the form of a ground water sink to release U-232, U235, U238, thorium, 232, 230, and 228, radium 226, 228, lead 210, and sister isotopes found at site IA07 into this strip mine and under our homes. Area IA07 is only 1200 feet from the proposed new stream bed. The USACE writes that site IA07 contains significant COPC's and COPEC's. The report further states "uncertainty regarding contaminated soil and or fill material throughout a large portion of area IA07." "Samples showed very high levels of uranium." The samples taken in the study are co-mingled and uncontained. One sample cited 3463 pCi/g for total uranium.

On the east side of Skylane Drive and North of Moonglow Lane there existed a 2 to 3 acre lake that contained no signs of life. Animal signs were devoid in the area. During the 1980's, a company filled the area just to the east of Skylane Dr. During this process, a bulldozer unearthed a number of blue barrels. Four or five of these barrels were sliced open by the dozer. The barrels contained a brown/black granular substance with a petroleum odor present. This is consistent with historical reports of "HCC filling lead lined barrels of raffinate and other nuclear wastes and burying these barrels off site."

The operator promptly reburied these barrels and filled the ravine with 60 feet of clean fill. Did these barrels contain nuclear waste? It is not beyond the realm of possibility.

Bradley road Inc. came in and drained the pond and took out about 1000 linear feet of wetlands behind this area. They then filled this acreage.

Keep in mind that approximately 204,000 people and 36,000 children live with 4 miles of this contaminated site and the proposed strip mine. The residents believe if you allow the moving of this unnamed stream and the proposed strip mine, it has the potential to create a radiological ecological disaster that could also affect the drinking water of northeast Ohio by releasing the contained uranium isotopes into our water intake located 12 miles away in Lake Erie.

Simich Entities reply:

The Simich Entities do not believe the residents' concerns are supported by the facts. In turn, such comments are creating unnecessary and unwarranted concerns affecting the judgment of the local citizens. We do not want our neighborhood to rival or surpass the ecological disasters in Hinckley, Ca., Times Beach, Mo., Love canal, N.Y., or Woburn, Ma.

Please deny the moving of this stream and help us deny Mining Permit #10428 and any mining permit in this area for at least 1000 years.

The table presented below is a compilation of a University of Florida world wide study entitled: *The Management and Environmental Impact of Construction and Demolition Waste* (Townsend & Kibert, 1997) and an OEPA study of 9 C&D landfills in Ohio.

The study includes the C&D landfills in Kuwait, Turkey, Australia, Canada, New Mexico, Monroe Ga., Homestead, Fl., Aiken County, S.C. , Nebraska, California, Newbury Post, Mass., along with New Orleans (Katrina) and the Twin Towers (9/11).

The University of Florida also noted that all of these landfills were positioned in poorer areas of their countries, states, counties, and cities. Most of these residents did not complain about these sites in the beginning of these landfills.

We are complaining!

Data obtained from these two studies are in almost total agreement. The landfill chemicals listed are found in the soil, air, ground water, and aquifers around the world

Simich Entities Reply:

Ohio, similar to other states, regulates the disposal of various materials based upon the levels of contamination associated with that material. Hazardous waste must be disposed of in the most highly engineered and regulated landfills. Solid waste (including household waste) must be disposed of in permitted sanitary landfills that are engineered to protective of human health and the environment. Construction and demolition debris (C&D material has less disposal requirements of these three classifications because it has the lowest levels of contamination) must be disposed of in landfills that the Ohio EPA has

deemed protective of human health and the environment.

On July 17, 2009, the Ohio legislature passed new OAC regulations regarding C&D landfills. ORC 3714.03 states that C&D landfills are not permitted to dump with 500 feet of an occupied dwelling or use a haul road to bring in C&D waste without the express written consent of the inhabitants. Using Hull Associates Site Plan for the Mining Permit Plat and the marked 500 ft. setback line, I find that a significant portion of the proposed landfill and the entire haul road cannot be used for the stated purpose in your Letter of Intent without the express written consent of the residents. No such documents have been granted by the residents.

Simich Entities reply:

Again, the Simich Entities are not presently petitioning to allow use of the site as a landfill.

Landfill Chemicals and Associated Health Problems

Chemicals	Health Problems
Lead (Lead Dust)	Mental Retardation, Behavioral and Learning Disabilities
Polychlorinated Biphenyl (PCB's)	Immune deficiencies, Reproduction Problems, Cancers, Low birth weight
Furanes	Same as PCB's
Dioxins	Compromises the immune system, Reproductive system, Developmental delays
Mercury	Autism, Sensory Impairment
Benzene	rapid heartbeat, Immune system Damage, compromises bone marrow
Hydrogen Sulfide	Circulatory, respiratory system problems, neurological, Reproductive and developmental impairment.

Arsenic

Neurological problems, Cancer,
Red blood cell deformities

Conservation

Moving or culverting the unnamed stream along Skylane Dr. will violate your two management goals you set for the Cuyahoga River watershed. The Cuyahoga Planning Commission is working with the Cuyahoga Valley Initiative to improve the water quality in the lower Cuyahoga River Valley. One of the main goals of this initiative of which the USACE is a member is to "reduce industrial and residential points of pollution loads." They are spending millions of dollars in foundation and tax payerdollars to clean the river while people who chose to flee the city, raise their families elsewhere, and have no personal or stake in the city take "cash for trash" and dump it at our doorstep. More to the point, they will not have to live with the consequences of this dump. In the end, they will simply walk away while the residents will be left to suffer the consequences for years to come.

Simich Entities reply:

The presumption made by the letter is that the Simich Entities will essentially walk away from the consequences of its work at the property site. Nothing could be further from the truth. Certainly, regulations associated with operations of the landfill are regulated and, in this instance, certainly the City of Cleveland, the Ohio Environmental Protection Agency and other governmental entities will keep a keen eye on the operations of the Simich Entities, both with respect to surface mining and (if and when permitted) landfill operations.

The USACE chronicles its participation in a symposium in Cleveland where the Cuyahoga River watershed was discussed. The stakeholders in the symposium all agreed to use "best practice management practices" in regard to the river watershed. "Proper zoning along tributary streambeds" was also agreed upon as was "the reduction of industrial and residential pollution loads."

The movement of the unnamed stream and the proposed strip mine will destroy approximately 1.3 acres of wetlands and replace it with a toxic dump. We already have almost 30 acres of toxic dump surrounding our neighborhood without the benefit of "best practices management"

According to Engineer's manuals it requires 4840 cu. yds. of material to cover 1 acre 1 ft. deep. The proposed creek move and the 8.5 acre strip mine would yield about 12 acres of active landfill that will be 100 ft. deep. It will require 5.8 million cu. yds. of debris and toxic waste to fill this mine. That translates into 4.3 million tons of toxic waste that will replace the lost wetlands. That is quite a pollution point load for the Cuyahoga River and the two tributaries to

absorb.

For comparison the 1978 Love Canal disaster in Niagara Falls, New York, only required 21,000 tons of toxic waste to cause the evacuation and relocation of 36 square blocks and 900 families.

This does not sound like "remediation is the 1st step in restoration" that the symposium was calling for.

Bradley Road Inc., Ty, Inc., and Landsong Environmental proposal to move or culvert the creek and strip mine 8.5 acres and add 5.8 cu. yds. of toxic debris or 4.3 million tons of toxic filled waste material within 500 feet of approximately 250 homes where families with young children reside is unacceptable. Given the replacement of the creek, the strip mine, and the landfill along the Cuyahoga River and the close proximity to the neighborhood, and based upon the Environmental justice Act of 1992 and the ensuing Presidential Executive Order #12898 by President Clinton and signed into law on February 28, 1994, I would submit to the USACE, the OEPA, and the City of Cleveland that the destruction of the wetlands, the moving or culverting the stream, the strip mine and the landfill is a violation of our civil rights, adversely affecting our health, property and environment under the equal rights protection clause of the 14th Amendment.

Needs and Welfare of the People

The original purpose of this landfill was to save property owners structures from sliding into the valleys. There was never an objective to move or culvert any streams or destroy any wetlands. This objective has been met a terrible price to our neighborhoods.

Over the past 20 years we have endured methane gas, infestations of cockroaches, rats, mice, and ants. We have endured furtive dust, air pollution aesthetically displeasing odors, sights and sounds from the landfill operations. We have watched the ground go from excellent/good to poor. We have been exposed to the environmental hazards of asbestos dust, and lead dust. The land fill has cost us economically! We continue to suffer a 7.3% property value loss on top of the already depressed real estate market.

We were unable to enjoy our outdoor properties in the spring, summer, or fall due to the landfill. Those of us who are in direct contact with the landfill can no longer vegetable garden because of the toxic chemicals leaching into the soils.

Now we are being asked to submit to the destruction of the last remaining wetlands, the possible expose radiological contamination, or the leachate from 4.3 tons of toxic waste entering the same aquifer that the HCC nuclear landfill that is located 1200 feet from the proposed site and forcing the nuclear contaminants into the surface water of the Cuyahoga River or beneath our homes. The Cuyahoga River Valley does not need another landfill. There are already 19 landfills with 500 feet of the Cuyahoga River from Garfield Hts. to the City of Cleveland.

ENOUGH!

Safety

The issues set forth above speak to the safety issues of the residents. There is no use in belaboring the points already discussed.

Legal Issues

On October 23, 1989, Bradley Road, Inc., was denied a land use permit by Resolution 89200 for a C&D landfill. (Enclosed)

In 1991, Bradley Road, Inc., applied to the City of Cleveland's Department of Health for a C&D filling permit. Bradley Road landfill did not disclose the fact that the land use permit was denied Bradley Rd., Inc. by the Cleveland Board of Zoning Appeals. This violates Ohio Administrative Code OAC-3745-37-02 (c) that states that "all statements or assertions are true and complete."

Misrepresentation of facts, falsehoods, and misleading statements for licensure in Ohio is a felony. Bradley Road, Inc., perpetuated this felony for the next 13 years. Enclosed please find a list of violations Bradley Road, Inc., has committed until February 24, 2003, when the landfill was closed due to a License Revocation Order from the OEPA and the City of Cleveland.

On February 6, 2006, the residents of Skylane Drive sued Bradley Road Inc. in Common Pleas Court. (Case #564710) The judge found Bradley Road, Inc., defrauded the residents of property and conditions contained in the contract regarding the landfill. Five years later, the residents are still waiting for Bradley Road, Inc., to adhere to the judge's decision.

On July 13, 2006, Federal court Case No. 1:04 CV1757 Final Consent Decree ordered the City of Cleveland to re-instate the 2003, 04, 06 landfill licenses subject to Bradley Road, Inc., correcting all violations before Bradley Road, Inc., could re-open the landfill with new operators.

The judge did not hear evidence that Bradley Road, Inc., did not have a legal right to run a landfill for 13 years.

Bradley Road, Inc., Ty, Inc., and Landsong Environmental are using the consent decree as a basis for them moving or culverting the unnamed stream, strip mining, and the reopening of the landfill.

As of June 16, 2011, only one of the existing 11 violations has been fixed. Ten violations have remained unresolved to the detriment of the environment and neighborhood for eight years..

It appears that the residents' rights have been ignored.

To add insult to injury, Bradley Road, Inc., has not paid taxes on parcel number 009-34002 for 10 years. He owes \$123,682.02. The unnamed creek flows thru this parcel.

The City has asked Cuyahoga County not to foreclose because they do not want the land. The City of Cleveland considers this parcel to be toxic!

Bradley Road, Inc., has not paid taxes on parcel 009-33-022 for two years. Bradley Road, Inc. has delinquent taxes of \$2922.55.

Landfill operators are walking away from their responsibilities of making sure landfills are safe and legal. A case in point involves a landfill located in Garfield Heights on Transportation Blvd. The leachate system is in such disrepair that the Northeast Regional

Another example is the West 11th St. LTD Partnership that ran a landfill at the corner of W. St. and Spring Road. Their leachate is leaking into Spring Road Creek and flowing directly into the Bradley Road Landfill and directly into the Cuyahoga River.

This company has also not paid any property taxes for 10 years. They owe \$62,843.26.

This destruction of our environment has to stop! Please help the residents in Skyview Estates and the Condo owners on Gino Lane stop the proposed creek relocation, strip and C&D landfill at 4300 Bradley Road, Cleveland, Ohio.

Under the *Freedom of Information Act*, and the review of City of Cleveland documents, OEPA documents, and the *Former Harshaw Chemical Site Remedial Investigation Report*, I believe the facts set forth herein, based upon the information provided are true and to the extent, I believe them to be true.



Sincere'

Ronald J. Bra Residents

SWORN TO AND SUBSCRIBED before me, a Notary Public, this 3 day of June, 2011.

NO **fir** "PUBLIC

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MARCELLUS MILLER
NOTARY PUBLIC
STATE OF OHIO

/MY COMMISSION EXPIRES
MAY 20, 2016



Cc: Sharrod Born, U.S. Senator
Rob Portman, U.S. Senator
Bill Patmon, State Representative
Yvonne M Conwell, Cuyahoga Count Representative Jan
Huber, Cleveland Board of Zoning Appeals Darnell
Brown, Chief Operating Officer
Robert J. Triozzi, Law Director
Robert Brown, Director of City Planning Karen
Butler, Department of Public Health Anthony
Brancatelli, Councilman Ward 12
Tom Collins, Old Brooklyn Development Center

Enclosures