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November 21, 2022

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Via Certified Mail/Return Receipt Requested

Mr. Michael Classen, P.E.
General Manager
Middle Point Landfill
750 E. Jefferson Pike
Murfreesboro, Tennessee 37130

Mr. Michael S. Regan, Administrator
EPA Office of the Administrator
Mail Code 1101 A
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Mr. David Salyers, P.E., Commissioner
Tennessee Dept. of Environment &
Conservation
312 Rosa L. Parks Ave.
Tennessee Tower – 2nd Floor
Nashville, TN 37243

Mr. Daniel Blackman
Regional Administrator
US EPA, Region 4
San Nunn Atlanta Federal Center
61 Forsyth Street, NW
Atlanta, GA 30303-3104

Ms. Jeaneanne Gettle
Water Division Director
US EPA, Region 4
San Nunn Atlanta Federal Center
61 Forsyth Street, NW
Atlanta, GA 30303-3104

Ms. Jennifer Dodd
Director, Division of Water Resources
Tennessee Dept. of Environment &
Conservation
312 Rosa L. Parks Ave.
Tennessee Tower
Nashville, TN 37243

Re: First Addendum to August 10, 2022, Notice of Intent to File Citizen Suit Pursuant to the Federal Clean Water Act

Dear Mr. Classen, *et. al*:

The purpose of this letter is to notify BFI Waste Systems of Tennessee, LLC (“BFI”), and its parent and/or controlling companies, Republic Services, Inc., and Republic Services of Tennessee, LLC (collectively as “Republic”), that the City of Murfreesboro, Tennessee, (“City”) has located and tested a new, unpermitted discharge of contaminated groundwater, was well as retested a continuing discharge, and intends to amend its current citizen suit or file a new citizen suit against Republic in sixty (60) days under section 505(a)(1) of the Clean Water Act (“CWA”), 33 U.S.C. § 1365(a)(1), in Federal District Court for additional and continued violations of the CWA resulting from the discharge of toxic landfill leachate from the Middle Point Landfill (“MPL”) into the East Fork Stones River. These additional violations have occurred and/or been

discovered since the City first served its August 10, 2022, Notice of Intent to File Citizen Suit against Republic (“August Notice”).

Similar to the violations in the August Notice, the additional violations of the CWA set forth in this First Addendum arise out of the illegal discharges of toxic landfill leachate containing, among other pollutants, per- and polyfluoroalkyl substances (“PFAS”) from the MPL to the East Fork Stones River and its tributaries. The East Fork Stones River serves as a drinking water source for the City of Murfreesboro and a recreational area for City residents.

This First Addendum to the August Notice is sent on behalf of the following person:

The City of Murfreesboro, Tennessee
111 West Vine Street
Murfreesboro, TN 37130
Phone: 615-893-5210

Any contact should be through the undersigned attorneys.

I. VIOLATIONS OF THE CLEAN WATER ACT

A. Additional and Continued Direct Discharges to Surface Waters Without a Permit.

“Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act [33 USCS §§ 1312, 1316, 1317, 1328, 1342, 1344], the discharge of any pollutant by any person shall be unlawful.” 33 USC § 1311.

1. Direct Discharges Through Groundwater.

As set out in the August 10, 2022, Notice, the Middle Point Landfill (“MPL”) has discharged and continues to discharge landfill leachate containing pollutants, including, but not limited to, per- and polyfluoroalkyl substances (“PFAS”), high chlorides, metals, and sulfates, through point sources without a permit pursuant to 33 U.S.C. § 1342. The PFAS discharged include perfluorooctanoic acid (“PFOA”) and perfluorooctanesulfonic acid (“PFOS”), which are highly toxic substances associated with a variety of health effects at extremely low exposure levels, including kidney and testicular cancer, immune system damage, and developmental effects. The current EPA Interim Drinking Water Health Advisory for PFOA is 0.004 parts per trillion (ppt) and for PFOS is 0.02 ppt, which are essentially non-detection levels. Other toxic PFAS include perfluorobutane sulfonate (“PFBS”) and perfluorohexanoic acid (“PFHxA”), which are associated with effects on the thyroid, reproductive organs and tissues, liver, lipids and lipoproteins, and kidneys, as well as developmental effects. The current EPA Interim Drinking Water Health Advisory for PFBS is 2,000 ppt, and no Advisory has been established for PFHxA at this time.

This First Addendum identifies an additional, previously unidentified, contaminated spring which is discharging contaminants directly into the East Fork Stones River in a manner functionally equivalent to a direct discharge. This spring is at or near an existing monitoring point for MPL referred to on maps as “Bubba Spring,” near Outfall 2.

The location of this newly discovered, contaminated spring discharge point can be reached by land or by boat. First, it can be found by boat on the south bank of a tributary stream leading from Outfall 2 to East Fork Stones River, which is approximately 145-150 feet south (upstream) of the Walter Hill Recreation Area boat ramp. Approximately 20-30 feet from the confluence of the tributary with the main channel, the spring emerges on the bank and was visible and flowing in late October during low flow/near drought conditions. The spring was visible above the water line and flowing down the bank into waters directly connected to the East Fork Stones River. The stream leading from Outfall 2 is on the east side of the river where the landfill is located. Second, the location can be reached by land from the perimeter road utilized by MPL that reaches and ends at the south side of the inlet. The perimeter road does not cross the stream inlet. Another road on the north side of the same inlet reaches the opposite bank from the north. The approximate latitude and longitude of this contaminated spring is 35.941877°, -86.374156°. This contaminated spring discharge is across from the City's Walter Hill Boat Ramp and immediately upstream of the Recreation Area where adults and children swim, fish, boat, and recreate.

The location may be referred to as "Bubba Spring" because it is consistent with various maps and with Republic's groundwater monitoring records that consistently identify a spring by that name in the same location. The photograph below shows the area of the contaminated spring emerging on the bank.



On October 4, 2022, samples were collected from this location. The results showed levels of PFAS at 730 ppt of PFOA, 18 ppt of PFOS, 15 ppt of PFBS, and 90 ppt of PFHxA. Other identifiable leachate pollutants from this groundwater spring include high chlorides, metals, and sulfates consistent with the MPL landfill leachate profile and with the constituents found in the other discharge located southeast of MPL (south of Matthews Lake) and identified in the August 10, 2022, Notice.

Each day that MPL continues to discharge landfill leachate and landfill wastewater containing leachate pollutants, including PFAS, through this contaminated spring is a violation of

the CWA for discharges without a permit. Because this sample was taken during normal operation of the MPL and the contaminated spring was flowing during dry conditions, it is likely that this discharge has continued and will continue on a regular, if not constant, basis.

2. Direct Discharge Through a Drainage Channel or Outfall.

MPL has discharged and continues to discharge landfill leachate containing pollutants, including, but not limited to, PFAS, through a point source without a permit pursuant to 33 U.S.C. § 1342 at or near (within 100 feet) its stormwater Outfall 2 into the East Fork Stones River on the west side of the MPL. These discharges are continuous and in addition to the discharges identified in the August Notice. The discharge at or near Outfall 2 is directly across the river from the City's Walter Hill Boat Ramp and immediately upstream from the Recreation Area. People, including children, regularly recreate in this area, including, but not limited to, boating, swimming, and fishing.

The levels of PFAS in this channel or outfall discharging to the river on October 4, 2022, include 200 ppt of PFOA, 25 ppt of PFOS, 35 ppt of PFBS, and 240 ppt of PFHxA.

Each day that MPL continues to discharge landfill leachate and landfill wastewater containing leachate pollutants, including PFAS, through this channel or outfall is a violation of the CWA for discharges without a permit. Because this sample was taken during normal operation of the MPL, it is likely that this discharge has continued and will continue on a regular, if not constant, basis.

B. Direct Discharges of Landfill Leachate and PFAS in Violation of the Tennessee General NPDES Stormwater Permit.

MPL's coverage under General NPDES Stormwater Permit Number No. TNR053250 ("Permit") does not authorize discharge of landfill leachate and landfill wastewater, as defined by 40 CFR Part 445.2(f). Section 1.2.3 of the Permit prohibits the discharge of stormwater discharges associated with industrial activity that are mixed with sources of non-stormwater. MPL is covered under Sector L - Stormwater Discharges Associated With Industrial Activity From Landfills and Land Application Sites, because it has received and continues to receive industrial wastes. Paragraph 2 of Sector L prohibits non-stormwater discharges. Landfill leachate and landfill wastewater are not stormwater.

MPL has discharged and continues to discharge landfill leachate containing pollutants, including PFAS, at or near (within 100 feet) its stormwater Outfall 2 into the East Fork Stones River on the west side of the MPL. The discharge at or near Outfall 2 is directly across the river from the City's Walter Hill Recreation Area, where boats are launched and people, including children, swim in the river. The levels of PFAS in this channel or outfall discharging to the river on October 4, 2022, include 200 ppt of PFOA, 25 ppt of PFOS, 35 ppt of PFBS, and 240 ppt of PFHxA, as well as other leachate pollutants, including high chlorides, metals, and sulfates.

The landfill leachate pollutants, including PFAS, discharged at or near Outfall 2 are not authorized by the NPDES Stormwater Permit, nor has MPL ever notified TDEC that landfill

leachate, including PFAS, is part of its stormwater. PFAS are not natural components of stormwater, and are, instead, components of MPL's landfill leachate and landfill wastewater.

These leachate discharge violations are indicative of an ongoing failure to control leachate outbreaks, which inevitably mix with stormwater when there is precipitation at the MPL. The mixture of leachate and stormwater has discharged and continues to discharge from stormwater outfalls at the MPL in violation of the Permit.

II. MAPS

Embedded below are 2 maps to assist with location of the illegal discharges discussed. **Map 1** is a large-scale view of the Middle Point Landfill and river area with four main areas identified: 1) The discharge found approximately 1.2 miles upstream from the City drinking water intake detailed in the August Notice, (also referred to in the First Amended Complaint as South East Groundwater Discharge ("SE/GW") south of the Matthews Lake area; 2) Matthews Lake; 3) the inlet to the unpermitted discharge area at or near Outfall 2 referred to in the Complaint as "N/W Outfall 2"; and (4) the new contaminated spring identified in this Addendum Notice, also known as "Bubba Spring."



Map 1

Map 2 is a detail of the area near Outfall 2 with the location and map coordinates for the new unpermitted discharge known as “Bubba Spring.”

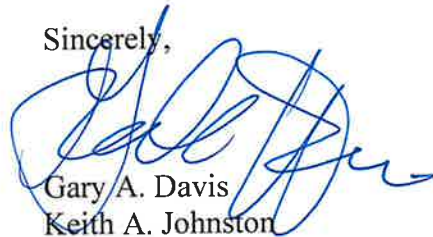


Map 2

III. CONCLUSION

Thank you for your prompt attention to the ongoing serious violations of federal, Tennessee, and local law by MPL. The City intends to amend its current citizen suit or file a new citizen suit against Republic under section 505(a) of the Clean Water Act for the violations discussed above if those violations are not addressed. In addition to these violations, this notice covers all violations of the CWA evidenced by information which becomes available to us after the date of this First Addendum to the August Notice. Pursuant to the CWA, we will seek civil penalties, attorneys' fees and costs, as well as an injunction against continued illegal discharges.

Sincerely,

A handwritten signature in blue ink, appearing to be 'Gary A. Davis'.

Gary A. Davis
Keith A. Johnston

cc: Merrick B. Garland
US Attorney General
US Department of Justice
950 Pennsylvania Ave., NW
Washington, D.C. 20530-0001

Elizabeth Murphy (*via e-mail*)
Adam Tucker (*via e-mail*)
Lisa Helton (*via e-mail*)