

Village of Green Trails Association, Inc.
August 17, 2020

Metropolitan St. Louis Sewer District
c/o Mr. Kirk Lambrecht
Division of Environmental Compliance
10 E. Grand Avenue
St. Louis, MO 63147

RE: Response to Notice of Violation
MSD Project Number: P002748700
Work Order: 591806

Dear Mr. Lambrecht:

I am writing you on behalf of the Village of Green Trails Association, Inc. in response to your Notice of Violation for Failure to Maintain Private Stormwater Management Facilities dated July 15, 2020. The Association is the successor to the Trustees of the Village of Green Trails which manages the property that is the subject of your letter.

Your Notice makes reference to an inspection of a detention basin located at 14530 Ladue Road, Chesterfield, MO 63017 and a resulting finding of erosion and incision along the spillway leading from a detention basin that is abutted by a dam and corresponding roadway at the property. MSD has requested that action be taken to correct the issues described in your Notice.

The dam and spillway at issue have been used for decades for the benefit of Tpheris Israel Chevra Kadisha Congregation (TICK), a religious organization that occupies property next to the basin with an address of 14550 Ladue Rd. TICK has used the roadway on top of the dam in order to access its property and building, which it considers landlocked, for many years. At present the dam roadway is the only roadway to the TICK property.

The dam and roadway were previously the subject of litigation between the Association's predecessor trustees and TICK. In 1976, as a result of that litigation, the St. Louis County Circuit Court entered an order granting TICK a private right-of-way over the Association property in order to access the TICK parcel. Two years later in 1978, the Association and TICK entered into a Stipulation filed with the court, which granted TICK the right to use the roadway over the dam for ingress and egress, but further required TICK to assume responsibility for the integrity of the subject dam, roadway, sidewalk and slope.

Thereafter, in 2008, the City of Chesterfield required that TICK renovate the dam so that it was compliant with Chesterfield and MSD code requirements. At that time, TICK created the spillway opposite the detention basin as part of that project.

The Association has become concerned about the condition of the dam and spillway and has raised this issue with TICK for resolution. In January, 2020, the Association's counsel sent a letter to TICK to make legal demand for repairs to the spillway infrastructure pursuant to the

Stipulation, which TICK rejected. In March, 2020, the Association's legal counsel sent another demand to TICK's counsel in order to set out the facts that require TICK's repair of the spillway.

To date, TICK has not met its repair obligations. As a result, on July 1, 2020, the Association filed a lawsuit against TICK in order to cancel TICK's right-of-way over the dam, or to obtain a judgment against TICK for the cost to repair the spillway. The lawsuit remains pending, but TICK has taken no actions known to the Association to remedy the issues with the spillway.

It is the Association's position that it has been prejudiced by TICK's past agreement to maintain the infrastructure, its construction of the spillway, and now TICK's refusal to maintain the infrastructure appropriately, all the while using the benefit of access over the dam. In the event that the Association's suit is successful and the right-of-way is cancelled, TICK has threatened to seek yet another ingress and egress right-of-way over the dam, alleging it remains landlocked, and after refusing to meet its legal obligations.

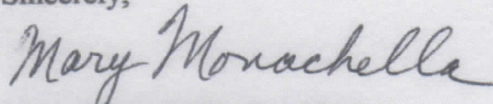
The Association remains hopeful that the litigation will encourage TICK to hold up its end of the bargain, and we submit that our past and current efforts to enforce the parties' agreements with respect to maintenance and repair of the infrastructure are satisfactory to MSD while the lawsuit is pending. Please be further assured that the Association has taken steps in order to determine what can be done to repair the spillway in the event that the court cancels TICK's right-of-way and the maintenance obligation reverts to the Association.

In further support of this response, I have enclosed the following documents for your consideration:

1. January 16, 2020 correspondence from Association counsel Jeffrey Schmitt to TICK (including as an enclosure the December 22, 1978 Stipulation)
2. March 12, 2020 correspondence from Schmitt to TICK counsel Douglas Baron
3. The Association's Petition against TICK in Case No. 20SL-CC03515

Thank you in advance for your attention to this matter. If you would like any additional information or would like to discuss this matter in further detail, please contact me by phone at 314-878-4119 or 636-579-9030.

Sincerely,



Mary Monachella, President
Village of Green Trails Association, Inc.

Cc: Danna McKittrick, P.C.
Jeffrey R. Schmitt