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State of Ohio Environmental Protection Agency

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OHIO E.P.A.
MAR 11 2010
ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.
By: _____ Date: 3-11-10

MAR 1 1 2010

Mr. Kirk Reich
General Manager
AK Steel, Middletown Works
1801 Crawford Street
Middletown, Ohio 45043-0001

RE: AK Steel Solid Waste Landfills 38 & 39, Butler County
Ohio Administrative Code (OAC) Rule 3745-27-13 Authorization Request

Dear Mr. Reich,

On November 3, 2009, the Ohio Environmental Protection Agency (Ohio EPA), Division of Solid and Infectious Waste Management (DSIWM), Southwest District Office (SWDO), received a request titled "Rule 13 Application: Railroad Construction, Solid Waste Landfills (SWMU's 38 and 39) at AK Steel Corporation, Middletown Works" that was prepared by AK Steel Corporation. AK Steel Corporation requested authorization to construct a railroad within three hundred feet of two (2) closed formerly licensed solid waste landfills at AK Steel, Middletown Works (Facility). The railroad will be part of a rail and conveyor system that will transport coke from Middletown Coke Company (SunCoke Energy) to AK Steel, Middletown Works.

Because the property was a formerly licensed solid waste landfill, the site is regulated under OAC Rule 3745-27-13(D)(1). In a Notice of Deficiency sent to AK Steel on December 23, 2009, Ohio EPA communicated deficiencies regarding the November 3, 2009, OAC Rule 3745-27-13 authorization request. On January 21, 2010, Ohio EPA, DSIWM, SWDO received a revised document addressing those deficiencies.

Based upon a review of the request submitted November 3, 2009, and the revised document received on January 21, 2010, I have determined, pursuant to OAC Rule 3745-27-13, that the proposed activities, if conducted in accordance with the request and the following conditions, will not result in a violation of applicable laws or regulations, will not create a nuisance, and are unlikely to adversely affect the public safety or health or the environment. Therefore, AK Steel and/or their appointed representative are hereby authorized to perform the activities outlined in this letter in accordance with the submitted plans, specifications, and information. This approval is subject to the following conditions:

CONDITIONS

1. This approval grants authorization to construct a railroad within three hundred feet of two closed formerly licensed solid waste landfills (SWMU's 38 & 39) in accordance with the request titled "Rule 13 Application: Railroad Construction, Solid Waste Landfills (SWMU's 38 and 39) at AK Steel Corporation, Middletown Works", submitted November 3, 2009, and revised January 21, 2010. All activities shall be conducted in strict accordance with the plans, specifications, and information submitted as part of this request. There may be no deviation from the approved plans without prior written authorization from Ohio EPA. Any future activities may require additional Ohio EPA approval.

2. Not later than seventy-two (72) hours prior to the start of activities associated with this authorization, AK Steel shall submit written notification which specifies the anticipated date of work commencement to Ohio EPA, DSIWM, SWDO.

3. All on-site activities shall be performed in a manner that prevents migration of leachate, explosive gas, or toxic gas from the Facility.

4. All activities undertaken shall not create a nuisance and shall not adversely affect public safety or health or the environment.

5. Should solid and/or hazardous waste be removed from the Facility it shall be containerized and securely stored until these materials are properly characterized and disposed of in accordance with Ohio Revised Code (ORC) Chapter 3734 and the regulations promulgated thereunder.

6. All liquids, semi-solids, industrial wastes, and other wastes regulated by ORC Chapter 6111 that are removed during intrusive activities shall be containerized and securely stored until these materials are properly characterized and disposed in accordance with ORC Chapter 6111 and the regulations promulgated thereunder.

7. Prior to any removal of waste or contaminated soil from the Facility, AK Steel shall submit copies of sample analysis results, the treatment or disposal method selected, and a letter of acceptance from the treatment or disposal facility to Ohio EPA, DSIWM, SWDO pursuant to OAC Rule 3745-27-13(H)(4).

8. Not later than sixty (60) days after completing the activities authorized by this approval, AK Steel shall submit to Ohio EPA, DSIWM, SWDO a certification report in accordance with OAC Rule 3745-27-13(H)(10).

9. All on-site activities shall be accomplished in compliance with all applicable state and federal laws and regulations pertaining to environmental protection, including but not limited to the control of air pollution, leachate, surface water run-on and run-off, and protection of ground water.

10. Surface water control structures shall be constructed, as needed, to divert water around the construction site. For the purposes of erosion control during all phases of construction at the Facility, AK Steel shall use Best Management Practices (BMP) standards as specified in the National Resource Conservation Service manual titled *Rainwater and Land Development*.

11. AK Steel shall take measures to control fugitive dust and other air emissions that may result from activities authorized by this action.

12. In accordance with OAC Rule 3745-27-13(M), this authorization shall terminate three (3) years after its effective date if AK Steel has not begun the activities authorized herein.

13. The Director may revoke this authorization if AK Steel violates, or is likely to violate, any applicable law or if continued implementation of the approved plans causes a threat to human health or safety or the environment.

14. Nothing in this letter shall be construed to authorize any waiver from any requirements of applicable state solid waste laws or regulations. This authorization shall not be interpreted to release AK Steel or others from responsibility under ORC Chapters 3704, 3714, 3734, or 6111; under the Federal Clean Water Act, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, or the Comprehensive Environmental Response, Compensation, and Liability Act; or from other applicable requirements for remedying conditions resulting from any release of contaminants to the environment.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of $70.00, made payable to "Ohio Treasurer Kevin Boyce," which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served

upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
309 South Fourth Street, Room 222
Columbus, OH 43215

If you have any questions concerning this authorization, please contact Pat Willoughby of Ohio EPA, SWDO at (937) 285-6648.

Sincerely,

Chris Korleski
Director

cc: Tracy Buchanan, DSIWM-SWDO
Pat Willoughby, DSIWM-SWDO