



OHIO E.P.A.

MAR 19 2014

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.

John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

ENTITLED DIRECTOR'S JOURNAL

By: [Signature] Date: 3-19-14

RE: City of Akron – CSO Tank 2 Area  
Director's Authorization  
Approval  
Municipal Solid Waste Landfills  
Summit County  
MSWL020098

CERTIFIED

March 19, 2014

Michael J Teodecki, P.E.  
Akron Engineering Bureau  
166 South High Street, Room 701  
Akron, OH 44308

**Subject: City of Akron CSO Retention Tank No. 2 Rehabilitation Activities,  
Summit County  
OAC Rule 3745-27-13 Authorization and Exemption**

Dear Mr. Teodecki,

On July 23, 2012, the Ohio Environmental Protection Agency (Ohio EPA) received a request titled *Rule 13 Authorization Application, City of Akron, Akron CSO Retention Tank No.2, Rehabilitation Activities* (Request). The Request was submitted pursuant to Ohio Administrative Code (OAC) Rule 3745-27-13(D)(2) by URS Corporation (URS) on behalf of the City. On August 8, 2012, Ohio EPA gave written notice to the City of Akron (City) to not commence work under the July 23, 2012 Request until written authorization is provided. Revisions to the Request were received on July 1, 2013, July 29, 2013, and January 21, 2014.

OAC Rule 3745-27-13 (Rule 13) requires authorization from the Director of Ohio EPA (Director) before engaging in filling, grading, excavating, building, drilling, or mining on land where a solid waste facility was operated. The Request proposes to conduct activities on an 8.77 acre area (Rule 13 Area) delineated in the Request, located east of Kelly Avenue between Tech Way and Ninth Avenue in Akron, adjacent to the former Settlement Street Landfill that operated from 1954 to 1968. Investigative activities completed between 1970 and 1980 and in March 2013 documented evidence of historic disposal of waste materials, including cinders, glass, wood, ashes, and vitrified fragments, and contaminated soils. The City is requesting permission to perform construction activities in order to rehabilitate an existing underground combined sewer overflow (CSO) retention tank, which will include excavation and relocation of waste materials, restoration of final cover soil, cleaning and repair of tank walls, construction of associated tank appurtenances, construction of a new pump control and Motor Control

Center building, extension of the City fiber optic network and natural gas service, replacement of sanitary and storm sewers, replacement of telecommunication and electrical services, and restoration of the access road and fence.

The City has requested an exemption from OAC Rule 3745-27-13(H)(6), which requires that any excavated waste be placed within previously existing horizontal and vertical limits of waste placement. The Request proposes to relocate excavated waste materials within the horizontal limits of the Rule 13 Area but above the previously existing vertical limits of waste placement. The Request proposes to conduct all activities within the delineated Rule 13 Area.

Based upon a review of the Request and all subsequent revisions, 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 create a nuisance, and are unlikely to adversely affect the public safety or health or the environment. Therefore, the City is hereby authorized to perform the activities outlined in this letter in accordance with the submitted and approved plans, specifications and information submitted as part of the Request.

As part of this authorization, the City is subject to the following conditions:

#### **CONDITIONS**

1. This approval grants authorization to perform activities within the Rule 13 Area in accordance with the July 23, 2012 Request titled *Rule 13 Authorization Application, City of Akron, Akron CSO Retention Tank No.2, Rehabilitation Activities* and subsequent revisions received through January 21, 2014. All activities shall be conducted in strict accordance with the plans, specifications, and other information submitted as part of the Request. There may be no deviation from the approved plans without prior written authorization from Ohio EPA. Any future activities at the Rule 13 Area may require additional Ohio EPA approval.
2. Not later than seventy-two (72) hours prior to the start of the activities associated with this authorization, the City shall submit written notification, which specifies the anticipated date of commencement, to Ohio EPA, Division of Materials and Waste Management (DMWM), Northeast District Office (NEDO) and Summit County Public Health.
3. 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.
4. All on-site activities shall be performed in a manner that prevents migration of leachate, explosive gas, or toxic gas from the Rule 13 Area.

5. All activities undertaken shall not create a nuisance and shall not adversely affect public safety or health or the environment.
6. Any solid and/or hazardous waste to be removed from the Rule 13 Area shall be containerized and securely stored until these materials are properly characterized and disposed in accordance with Ohio Revised Code (ORC) Chapter 3734 and the regulations promulgated thereunder.
7. Any 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.
8. Prior to any removal of waste or contaminated soil from the Rule 13 Area, the City 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, DMWM, NEDO, pursuant to OAC Rule 3745-27-13(H)(4).
9. Not later than sixty (60) days after completing the activities authorized by this approval, the City shall submit to Ohio EPA, DMWM, NEDO a certification report in accordance with OAC Rule 3745-27-13(H)(10).
10. The City shall take measures to control fugitive dust and other air emissions that may result from activities authorized by this approval.
11. The relocation of waste within the Rule 13 Area shall be conducted in such a manner that promotes positive drainage and eliminates the ponding of surface water.
12. For the purposes of erosion control during construction activities at the Rule 13 Area, the City shall use best management practices and standards as specified in the National Resources Conservation manual titled *Rainwater and Land Development* prepared by the Ohio Department of Natural Resources, Division of Soil & Water Conservation.
13. Provided that seasonal conditions allow, seeding of the Rule 13 Area shall take place not later than 30-days after final grading. A vegetative cover that is adequate in controlling erosion shall be established not later than 2 years after seeding.
14. The City shall ensure that any excavated waste is relocated within the horizontal limits of the Rule 13 Area, in accordance with the exemption granted below, or is containerized and securely stored until the materials are properly characterized and disposed in accordance with Conditions 6, 7, and 8.

15. The City shall apply a minimum six-inch layer of soil cover or other alternative daily cover material acceptable to Ohio EPA to all exposed waste or contaminated soils by the end of the working day to control fire hazards, blowing litter, odors, insects, vectors, and rodents.
16. Construction activities conducted pursuant to this authorization shall not commence until all applicable authorizations and permits have been secured from Ohio EPA's Divisions of Drinking and Ground Waters (DDAGW) and Division of Surface Water (DSW), pursuant to ORC Chapter 6111. Not later than forty-eight (48) hours prior to commencement of any activities requiring authorization pursuant to ORC Chapter 6111, the City shall provide written evidence to Ohio EPA, DMWM, NEDO and Summit County Public Health specifying that such authorization have been secured.
17. In accordance with OAC Rule 3745-27-13(M), this authorization shall terminate three (3) years after its effective date if the City has not begun the activities authorized herein.
18. In accordance with the OAC Rule 3745-27-13(K), the Director may revoke this authorization if the City violates, or is likely to violate, any applicable law or if continued implementation of the authorized plans may cause a threat to human health or safety or the environment.

#### **END OF CONDITIONS**

#### **EXEMPTION FROM OAC RULE 3745-27-13(H)(6)**

On behalf of the City, URS has requested an exemption from OAC Rule 3745-27-13(H)(6), which requires that "no excavation of waste shall occur unless the excavated waste is replaced within previously existing horizontal and vertical limits of waste placement or is treated or disposed of at a licensed, permitted treatment or disposal facility, in accordance with Chapter 3734 of the Revised Code and the regulations promulgated thereunder."

As part of the activities approved through this authorization, the City will be excavating waste and relocating it to a designated area within the Rule 13 Area. The Request identifies a Rule 13 Area which encompasses all of the areas where the proposed activities will be conducted. All waste movement will occur within the horizontal limits of the Rule 13 Area, but above the previously existing vertical limits on a portion of the Rule 13 Area.

Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), the Director may, by order, exempt any person generating, collecting, storing, treating, disposing of, or

transporting solid wastes, or processing solid wastes that consist of scrap tires, in such quantities or under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment, from any requirements to obtain a registration certificate or license or comply with other requirements of ORC Chapter 3734.

Ohio EPA has reviewed the Request received on July 23, 2012, subsequent revisions received through January 21, 2014, and associated information. Because the relocation of waste materials will occur within the previously existing horizontal limits of the Rule 13 Area, and because the relocated waste materials will be capped with two feet of appropriate cover soils, including 6-inches of offsite topsoil, and vegetated to promote proper drainage, allowing the City to relocate waste materials above the previously existing limits of waste placement is unlikely to adversely affect public health or safety or the environment. Therefore, pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), the City is hereby exempted from the requirement of OAC Rule 3745-27-13(H)(6) as it applies to the placement of waste materials above the previously existing vertical limits of waste placement in the Rule 13 Area during the performance of activities described in the Request, provided that the City strictly complies with all conditions of this authorization. Relocation of waste materials shall not occur beyond the established Rule 13 Area delineated in the Request.

#### **END OF EXEMPTION**

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable federal or state laws or regulations except as specified herein. This authorization shall not be interpreted to release the City 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 ORC Section 3745.04. 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 "Treasurer, State of Ohio." The Commission, in its discretion, may reduce the fee if by affidavit it is demonstrated 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:

Michael J Teodecki, P.E.  
Akron Engineering Bureau  
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Environmental Review Appeals Commission  
77 South High St., 17<sup>th</sup> Floor  
Columbus, Ohio 43215

If you have any questions concerning this authorization, please contact Karen Naples of Ohio EPA, DMWM, NEDO at (330) 963-1244.

Sincerely,



Craig W. Butler  
Director

cc: Scott Hester, DMWM-CO (w/ Enclosure)  
Lynn Sowers, DMWM-NEDO (w/ Enclosure)  
Julie Brown, Summit County Public Health (w/ Enclosure)  
Michael J. Stepic, URS Corporation

ec: Dave Dysle, DMWM-NEDO  
Nancy Zikmanis, DERR-NEDO  
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