



State of Ohio Environmental Protection Agency

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P.O. Box 1049
Columbus, OH 43216-1049

Derrick Kinder, Mayor
Village of Newburgh Heights
4000 Washington Park Boulevard
Newburgh Heights, OH 44105

**RE: FORMER BERT AVENUE LANDFILL, CUYAHOGA COUNTY
OHIO ADMINISTRATIVE CODE RULE 3745-27-13 AUTHORIZATION**

Dear Mr. Kinder:

On October 2, 2006, the Ohio Environmental Protection Agency (Ohio EPA), Division of Solid and Infectious Waste Management (DSIWM), received a September 29, 2006, document titled *Bert Avenue Landfill, Rule 13 Request To Replace Existing Sewer Main, Village of Newburgh Heights, Ohio, September 2006*. The request was submitted pursuant to Ohio Administrative Code (OAC) Rule 3745-27-13(D)(1) for sewer line repairs adjacent to the Bert Avenue Landfill. Revisions to the original document were received on January 10, 2007. The document and revisions were submitted by Elewski & Associates, Inc. (Elewski) on behalf of the Village of Newburgh Heights. The Bert Avenue Landfill is a closed industrial waste disposal facility located at the end of East 27th, East 29th Streets and Bert Avenue in the Village of Newburgh Heights, Cuyahoga County. The landfill is currently in post-closure care.

The request specifically involves the replacement of an existing combined sewer overflow sewer outside the limits of waste placement along the toe of the slope of the former Bert Avenue Landfill. A new 36 inch diameter sewer will be placed above the existing 30 inch diameter sewer. The abandoned sewer line will be sealed and filled with mortar grout. This authorization is limited to areas outside the limits of waste placement only. Additional authorization will be required to do any additional development over the property.

Based upon a review of the document and subsequent revisions, Ohio EPA has determined that the proposed activities, if conducted in accordance with the request and the following conditions, will not result in a violation of applicable laws and regulations, will not create a nuisance, and are unlikely to adversely affect the public safety or health or the environment. Therefore, the Village of Newburgh Heights 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:

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Conditions

1. This approval grants authorization for the replacement of an existing combined sewer overflow sewer outside the limits of waste placement along the toe of the slope of the former Bert Avenue Landfill, Village of Newburgh Heights, Cuyahoga County in accordance with the request titled *Bert Avenue Landfill, Rule 13 Request To Replace Existing Sewer Main, Village of Newburgh Heights, Ohio, September 2006* revised January 2007 received January 10, 2007. All activities must 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 the express, written approval of Ohio EPA. Any future activities may require additional Ohio EPA approval.
2. Ohio EPA, Northeast District Office (NEDO), DSIWM and the Cuyahoga County Health Department shall receive written notice not later than seventy-two (72) hours prior to commencement of the proposed activities.
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 Facility.
5. All activities undertaken shall not create a nuisance and shall not adversely affect public safety or health or the environment.
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 regulations promulgated thereunder.
7. Prior to any removal of waste or contaminated soil from the property, the Village of Newburgh Heights and/or their appointed representative 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, NEDO, pursuant to OAC Rule 3745-27-13(H)(4).

8. Not later than sixty (60) days after completing the activities authorized through this approval, the Village of Newburgh Heights and/or their appointed representative shall submit to Ohio EPA a certification report in accordance with OAC Rule 3745-27-13(H)(10).
9. The Village of Newburgh Heights and/or their appointed representative shall take measures to minimize the potential for increased subsurface infiltration of surface water due to disturbance of the facility and other authorized activities.
10. The Village of Newburgh Heights and/or their appointed representative shall take measures to control fugitive dust and other air emissions due to disturbance of the facility and other authorized activities.
11. In accordance with OAC Rule 3745-27-13(M), this authorization shall terminate three years after its effective date if the Village of Newburgh Heights and/or their appointed representative has not begun the activities authorized herein.
12. The director may revoke this authorization if the Village of Newburgh Heights and/or their appointed representative violates, or is likely to violate, any applicable law or if the continued implementation of the approved plans causes a threat to human health or safety or the environment.
13. 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 the Village of Newburgh Heights and/or their appointed representative 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 from the facility to the environment.

End of Conditions

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 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

Derrick Kinder, Mayor
Village of Newburgh Heights
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309 South Fourth Street
Room 222
Columbus, Ohio 43215

If you have any questions concerning this authorization, please contact John Hujar of Ohio EPA's NEDO at (330) 963-1122.

Sincerely,

Chris Korleski
Director

CK/JH/cl

cc: Scott Hester, DSIWM-CO
Murat Tukul, DSIWM-NEDO
David G. Bradt, Elewski & Associates, Inc.
Matt Johnson, Cuyahoga County Board of Health