



State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.
Twinsburg, Ohio 44087

TELE: (330) 963-1200 FAX: (330) 487-0769
www.epa.state.oh.us

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

February 9, 2010

**RE: TECH WAY WATERLINE
NOTICE OF VIOLATION**

CERTIFIED MAIL

Mr. Ralph Coletta, City Engineer
City of Akron, Engineering Bureau
Room 701
166 South High Street
Akron, Ohio 44308

Dear Mr. Coletta:

This letter provides a notice of violation regarding the installation of a waterline near the intersection of Tech Way and Kelly Avenue in Akron. Ohio EPA discovered the violations when reviewing the city's monthly drinking water reports. The reports indicate the 12-inch Tech Way waterline is connected to the existing Kelly Avenue 12-inch waterline. From Kelly Avenue, the Tech Way waterline extends east approximately 600 feet and then northeast approximately 1,800 feet toward the Goodyear/Eastgate development project and Martha Avenue. Ohio EPA understands that the Tech Way waterline was installed to provide drinking water to the Goodyear Riverwalk area that is planned to be constructed north of the Goodyear-Seiberling Street Landfill and to provide improved flow in the service area.

The Tech Way waterline at the Kelly Avenue intersection is constructed in an area that is known as a historic solid waste disposal area based upon boring logs from the 1970s. This area contains the closed Settlement Street municipal solid waste landfill that operated from 1954 to 1965. Joy Park and Kelly Avenue were later constructed on the landfill.

In addition, the Tech Way waterline extends to the north through another potential waste area previously identified as the "Alpha property", and now known as Parcel 6 from the Goodyear RiverWalk project plans and recent property transfers. A copy of Ohio EPA's letter concurring with the prior Rule 27-13 certification report for the area of Parcel 6 is attached for the convenience of the reader.

Violations

1. The City of Akron is in violation of OAC 3745-27-13(A) due to excavating and constructing in a solid waste landfill without prior authorization. OAC 3745-27-13(A) states in part, "No person shall, without prior authorization from the director, engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility or solid waste facility was operated."

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2. The city of Akron is in violation of OAC 3745-91-03 (A)(10) for failing to show the locations of potential sources of contamination in the proposed project area.

Investigatory Plan

Borings will need to be installed to delineate the limits of waste placement within the work/disturbed areas of the Tech Way waterline. Once Ohio EPA has reviewed the boring results, a remedial action plan will be developed.

Borings

Ohio EPA requests the city of Akron submit a boring plan that includes a boring every 50 feet along the Tech Way waterline. OAC 3745-27-13(D)(3) describes the appropriate authorization needed when only sampling is planned at a solid waste area. Limitations for this authorization include: the borings should not be deeper than 10 feet and a maximum five cubic feet of cuttings can be generated during the boring installations.

Within thirty (30) days, please submit to Ohio EPA a plan for boring installations that complies with OAC 3745-27-13(D)(3). Ohio EPA requests that the plan include a boring every 50 feet in an alternating left-right pattern along the Tech Way waterline. A Geoprobe may be used to install the borings. Please record water levels when installing the borings. The boring plan should include a plan drawing that clearly shows the existing waterline(s) and location of proposed borings. Ohio EPA Division of Drinking and Ground Waters is requesting the boring plan identify the boring locations and at least six locations where the boring sample is to be further analyzed. Specifically, the following boring locations must be identified on the plan:

- At least three borings must be located in the immediate area of Kelly Avenue and Tech Way. These borings are to be analyzed for Total Metals, pH, VOCs, and SVOCs.
- At least two borings are to be located on the Alpha property along the waterline alignment at areas of suspect fill material and analyzed for Total Metals and asbestos. Depending upon boring material observations in the field, these samples may also be required to be analyzed for VOCs and SVOCs, at a minimum.
- An additional boring must be placed on the Alpha property near the existing oil/gas well. This boring is to be the 50-foot incremental boring located nearest the oil/gas well on the downslope side along the waterline alignment. This boring must be analyzed for Total Metals, VOCs, SVOCs, and TPH.

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Determination of which of the two remaining borings to be analyzed will be based upon available information and field observations by Ohio EPA representatives. Additional analyses may be required at Ohio EPA's discretion based upon field observations.

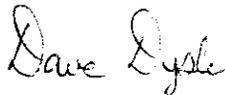
Explosive Gas Monitoring

Ohio EPA also requests that the boring plan include a description of explosive gas monitoring during the installation of borings. This is requested because utility lines can act as a migration pathways for explosive gas generated from buried solid waste.

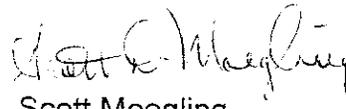
Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release the city of Akron from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water or Comprehensive Environmental Response, Compensation, and Liability Acts for remedying conditions resulting from any release of contaminants to the environment.

Should you have any questions, please call Dave Dysle at (330) 963-1286, or Scott Moegling at (330) 963-1277.

Sincerely,



Dave Dysle
Environmental Specialist 2
Division of Solid and Infectious
Waste Management



Scott Moegling
Environmental Specialist 3
Division of Drinking and Ground Water

DD/SM/cl

cc: Karen Naples, DSIWM, NEDO
Melinda Berry, DSIWM, CO
Marty Cooper, DSIWM-Legal, CO
Bradford Beckert, Akron City Engineering Bureau
Michael Teodecki, Akron City Engineering Bureau
Julie Brown, Akron City Health Department
File: [Sowers/LAND/Goodyear RiverWalk/COR/77]