



Environmental
Protection Agency

John R. Kasich, Governor

Mary Taylor, Lt. Governor

Scott J. Nally, Director

August 13, 2012

**RE: CUYAHOGA STREET LANDFILL
RACKS 40 & 31 ALTERATION
NORTHSIDE INTERSEPTOR
NOTICE OF VIOLATION**

CERTIFIED MAIL 7011 0470 0002 3496 4161

Richard Merolla, Director of Public Service
City of Akron, Department of Public Service
166 South High Street, Room 201
Akron, Ohio 44308-1657

Dear Mr. Merolla:

This letter provides a notice of violations and comments identified by Ohio Environmental Protection Agency (Ohio EPA) during some recent inspections. On July 27 and 30, 2012, Ohio EPA and Akron Health Department inspected the replacement of an aerial sanitary sewer crossing (bridge containing a sanitary sewer pipe) across the Little Cuyahoga River located north of the Rack 40 and 31 combined sewer retention basin (Rack 40 basin). The project is called the Northside Interceptor Aerial Crossing and is near 550 Cuyahoga Street, Akron. The project area is on the Cuyahoga Street Landfill.

The Cuyahoga Street Landfill is a closed municipal solid waste landfill owned by the city of Akron and located north of Memorial Street Parkway, west of Cuyahoga Street, east of the Chessie System railroad, and south of the Cuyahoga River, in Akron. The landfill is located on both the east and west sides of the Little Cuyahoga River.

The old aerial sewer pipe was in the center of a concrete "bridge" that spanned the river. The new sewer line is a synthetic line in an open metal frame that also crosses the river. The inspections included the east and west shorelines of the Little Cuyahoga River in the project area. This project is complex and related to the Rack 40 basin, so an explanation is provided below.

Background

The Rack 40 basin included an excavation into the landfill, the creation of a solid waste mound on the north side of the excavation, and a concrete retention basin measuring 200 feet, by 300 feet, by 35 feet deep. The purpose of the basin is to temporarily store combined sewer (storm water and sanitary sewer) overflows from racks (sewer outlets) 40 and 31. The basin allows overflows to be stored for later treatment at the city's sewage treatment plant.

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Because the Rack 40 basin was located on a solid waste landfill, the owner, city of Akron, was required to receive prior approval from Ohio EPA before beginning construction activities, pursuant to Ohio Administrative Code (OAC) 3745-27-13 (Rule 13). On November 29, 2004, the city received approval from Ohio EPA for Rack 40 construction activities. The retention basin was completed in October 2006.

In March 2007, the city requested an alteration to the Rack 40 2004 Rule 13 authorization to include the replacement of the sewer line crossing the Little Cuyahoga River. The alteration was granted on April 6, 2007. The alteration only includes the disturbance of waste that could be encountered at the "bridge" abutments at the east and west shores of the Little Cuyahoga River.

On July 25, 2012, URS Consultants notified Ohio EPA that the sewer replacement mentioned in the 2007 alteration has recently begun.

July 27, 2012, west shore

On July 27, 2012, Ohio EPA and Summit County Public Health inspected the west shore of Northside Interceptor Project site. Attending the inspection were Michael Stepic and Ronald Hager, URS Consultants; Jim Hall, Project Manager, representing city of Akron; Julie Brown, representing Summit County Public Health; and Allison Giancola and I, representing Ohio EPA, Division of Materials and Waste Management.

At the west shore, observations included: the old concrete span supporting the sewer had been removed; the metal truss crossing the river was complete and the new sewer line was being installed in the bridge. Four large black high-density polyethylene (HDPE) pipelines were going across and through the river to divert sewage while the new sewer bridge was being constructed. The four lines ran from the east side to Rack 31 at the west shore to the north end of the Rack 40 site. The west and east shores had disturbed soils and areas of recent grading. The remnant rebar and some broken concrete of the old bridge were in a pile on the east shore.

No waste was observed at the west shore of the project area. However, both the west and east shores did not have the proper storm water controls to prevent sediments from entering the river. Mr. Hall and Mr. Stepic explained that the night before there had been a severe rainstorm that had washed away the silt fences. Some of remnants of silt fencing were still visible. It was explained that the new silt fencing would be installed soon.

July 27, 2012, east shore

On July 27, 2012, immediately after the above inspection, Ohio EPA also inspected the east shore of the project area. Attending the inspection were Allison Giancola and I,

representing Ohio EPA, Division of Materials and Waste Management. Inspection results were discussed with Wayne Albrecht and Michael Pilo, representing W. G. Lockhart Construction Company. Observations included: the four large black HDPE pipelines going in and across the river led to a newly installed concrete junction box. Sewage was being pumped by approximately ten pumps from the junction box to the four black HDPE pipe lines. Please see attached photos.

1. The junction box excavation was shaped like two rectangles joined together. The rectangles were approximately 20 feet by 20 feet and 10 feet by 50 feet. The excavation was approximately nine feet deep. The excavation is in the area considered to be part of the Cuyahoga Street Landfill.

The city of Akron is in violation of **OAC 3745-27-13(A)** because the excavation for the junction box was done without prior authorization pursuant to OAC 3745-27-13(A). This rule 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."

2. The city of Akron is also in violation of **Condition 1 of the Rule 13 authorization dated April 6, 2007** because the excavation for the junction box was not identified in the Rule 13 application. Condition 1 states,

"This approval grants Akron authorization to perform activities at the Facility in accordance with the document titled Rule 13 Authorization Application, City of Akron Rack 40 & 31 Site Construction Activities: Phase 1, Cuyahoga Street, Akron, Ohio, dated February 2004, received March 1, 2004, and subsequent revisions received August 26, 2004; September 28, 2004; October 20, 2004; and October 21, 2004. All activities shall be conducted in strict accordance with the plans, specifications, and other 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 at the Facility may require additional Ohio EPA approval."

To comply with items 1 and 2 above, the city must provide an "after the fact" Rule 13 request pursuant to OAC 3745-27-13(D)(2) and OAC 3745-27-13(F). Akron may submit an alteration to the existing Rule 13 dated November 29, 2004.

3. A large pile consisting of a mixture of soil and solid waste was near the junction box. Solid waste included glass bottles, pieces of plastic, wood and metal, carpet fiber, and a bicycle seat. W. G. Lockhart employees said that the junction box excavation

occurred two to three weeks ago and that the upper seven feet of the excavation contained waste.

The city of Akron is in violation of the **Condition 9 of Rule 13 authorization dated November 29, 2004** because the excavated waste was not containerized. Condition 9 states,

“All solid waste to be removed from the Facility 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.”

Ohio EPA requested the Lockhart personnel to containerize the waste pile pursuant to Condition 9. A copy of the Rule 13 dated November 29, 2004 was given to Mr. Albrecht, W. G. Lockhart. Mr. Albrecht said that they were very busy and asked if tarping the waste pile would be acceptable. Ohio EPA said that the waste pile could be tarped temporarily, but the pile would still need to be containerized as soon as possible. Ohio EPA also explained that before the waste could be removed, **Condition 11 of the Rule 13** authorization requires the city to provide to Ohio EPA the waste characterization and letter of acceptance before disposing the waste at a licensed disposal facility. Condition 11 states,

“Prior to any removal of waste or contaminated soil from the property, Akron 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).”

To comply with the above conditions, the city must immediately containerize the waste pile. Before removal and disposal of waste, the city must comply with Conditions 9 and 11 of the Rule 13 authorization dated November 29, 2004.

4. There were significant amounts of solid waste exposed west of the junction box. Solid waste was exposed in an area of recent grading, mainly under and around the four black HDPE sewer pipes and pumps. This area is next to and south of the First Energy substation. The solid waste included glass bottles, newspaper, porcelain insulator and pieces of plastic, rubber, glass, metal and wood. This waste should have been containerized or at least covered while the temporary sewer pipes are in use. Once the temporary sewer pipes can be moved the waste must be containerized and disposed of properly, or the cap must be restored according to the 2004 Rule 13 authorization.

Because exposed solid wastes were not covered with daily cover at least six inches thick, the city of Akron was in violation of **Condition 1 of the OAC 3745-27-13 authorization approved on November 29, 2004**. Condition 1 states in part,

“All activities shall be conducted in strict accordance with the plans, specifications, and other information submitted as part of this request. There may be no deviation from the approved plans without prior written authorization from Ohio EPA.”

Section 2.2 of the approved plan, at the top of page 8, states in part,

“Any waste materials excavated at the project location that will remain exposed for more than 24 hours will be covered with a minimum of 6-inches of soil material or an approved alternative cover material . . .”

Daily cover is important because it keeps the solid waste from becoming saturated from precipitation. Saturated solid wastes will generate leachate that may cause surface water and/or ground water contamination.

Because the sewer repair has been completed, daily cover is no longer needed. To achieve compliance, the city must immediately cap the exposed solid wastes at the graded area west of the junction box, pursuant to **Condition 8 of the OAC 3745-27-13 authorization approved on November 29, 2004**. No solid wastes should be visible in this area. In addition to this area, any other area that has been disturbed shall be capped in accordance with Condition 8.

July 30, 2012, east shore

In the morning on July 30, 2012, Julie Brown, Summit County Public Health, inspected the east shore of the project area. The waste pile was still exposed and Ms. Brown told Cory, representing city of Akron, that the waste pile needed to be tarped immediately.

Several hours later on July 30, 2012, Ohio EPA inspected the east shore of the project area. Attending the inspection were Allison Giancola and I, representing Ohio EPA, Division of Materials and Waste Management. The new sewer line across the Little Cuyahoga River was connected. Employees of W. G. Lockhart were disconnecting the pumps and temporary sewer pipes at the junction box. Silt fence had not been installed along either shore of the river. Inside the junction box, the pump side of the box had been walled off. The waste pile had a black plastic tarp that covered most of the pile. However, the tarp was not large enough and the back part of the pile was still uncovered.

Inspection results were discussed with Wayne Albrecht and Jeff Robertson, representing W. G. Lockhart Construction Company.

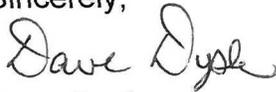
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Please provide documentation of compliance with Ohio EPA, Division of Surface Water (DSW) and US Army Corps permits, pursuant to conditions 18 and 20 of the 2004 Rule 13 authorization.

Nothing in this letter shall be construed to authorize any waiver from any requirements of applicable state solid waste laws or regulations. This letter shall not be interpreted to release the city of Akron or others from responsibility under ORC Chapters 3704, 3714, 3734, or 6111; under the Federal Clean Water Act, the Resource Conservation and Recovery 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.

Please provide a written response within fourteen days of receipt of this letter. If you have any questions regarding this letter, please contact me at (330) 963-1286.

Sincerely,



Dave Dysle
Environmental Specialist
Division of Materials and Waste Management

DD/cl

Attachment: Photos from July 27, 2012

cc: Kelly Jeter, DMWM, CO
Allison Giancola, DMWM, NEDO
Jennifer Bennage, DSW, NEDO
Julie Brown, Summit County Public Health
Jim Hall, Akron Department of Public Service
Michael Stepic, URS Consultants
File: [Sowers/COUN/Cuyahoga St. LF/COR/77]

