



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

December 19, 2012

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

CERTIFIED MAIL 7012 1010 0000 9467 7506

James Andrew Hewitt
City of Akron, Department of Public Service
Akron Engineering Bureau
166 South High Street, Room 201
Akron, Ohio 44308-1657

Dear Mr. Hewitt:

This letter responds to your letter dated August 29, 2012. Your letter responded to Ohio Environmental Protection Agency's (Ohio EPA) letter dated August 13, 2012, regarding violations identified on July 27 and 30, 2012, at the 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. On November 29, 2004, the City received approval from Ohio EPA for Rack 40 construction activities. This work included in part a significant waste relocation effort and construction of clay cap on the relocated waste mound. A partial certification report for construction of the clay cap on the relocated waste mound was submitted and approved on June 20, 2007. This certification report will be included in the final certification report for the entire project.

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 request only included the disturbance of waste that could be encountered at the "bridge" abutments at the east and west shores of the Little Cuyahoga River. However, as part of the replacement of the sewer line, the interceptor tank apparently had to be excavated in order to connect temporary sewer lines to run from the interceptor tank and across the river while the permanent structure was under construction. This work necessitated the disturbance of waste in the area of the interceptor tank to the east of the river and to the south of the electric substation. However, none of this work area including the excavation of waste was included in the original Rack 40 2004 Rule 13 or in the subsequent April 2007 alteration, or in any subsequent request for amendment to the prior authorizations.

James Andrew Hewitt
City of Akron, Department of Public Service
December 19, 2012
Page 2

Ohio EPA has considered your August 29, 2012 response as well as our additional discussions at the site on November 14, 2012. Our reply is below. The order of items listed below follows the previous notice of violation (NOV) dated August 13, 2012.

1. Ohio EPA cited a violation of OAC 3745-27-13(A) due to the excavation and construction of the bypass operation which included the junction box. At item 2 of the NOV, Ohio EPA also cited a violation of Condition 1 of the Rule 13 authorization. You disagreed and implied that Ohio EPA should have known that a junction box would be excavated. Ohio EPA would like to emphasize for any Rule 13 submittals and subsequent alterations, adequate construction detail needs to be provided by the applicant in the Rule 13 submittal. Ohio EPA cannot assume any additional detail beyond the specific construction details and drawings that are provided. The City cannot deviate from or expand the approved plans without an approved alteration. All activity must be conducted in strict compliance with the approved plans. Any proposed deviations from approved plans must be submitted and approved as amendments or alterations to the original approval prior to said work being undertaken. Ohio EPA will endeavor to respond to the City in a timely fashion to not hold up construction work, but clearly the temporary piping from the interceptor tank was anticipated by the City prior to Ohio EPA's inspections in late July 2012.

Therefore, in order to come into compliance with the Rack 40 2004 Rule 27-13 authorization as amended in April 2007, the City will need to submit an alteration request to the existing Rule 13 including drawings that reflect the construction details of the bypass operation. Please submit the alteration request to NEDO within 30 days of the date of this letter. The alteration needs to also specifically include a request to place an additional 12 inches of soil on the entire area and reseed the entire area in order to restore the existing cap for this work area.

2. The City has come into compliance with item 3 of the NOV dated August 13, 2012 regarding the waste pile characterization and disposal.
3. We understand that the City did not intentionally remove the cap on this area of the landfill, beyond the immediate area of the interceptor tank. However, the cap conditions were compromised in this entire area from the temporary piping and the equipment on the site such that solid waste is exposed on the surface throughout the interceptor area to the east of the river and south of the substation. Currently, there is very little or no cap remaining in this area of the landfill and solid waste is exposed on the surface. The identified historical waste is clearly waste associated with the Cuyahoga Street Landfill that was likely exposed as a result of the general construction activities even though the specific area of excavation was relatively limited.

To achieve compliance, the City shall propose an amendment to the 2004 27-13 authorization that details the additional work conducted in the area of the interceptor tank and will also include the proposal to replace the cap material to pre-existing conditions with the placement of one foot of cover soil that is nonputrescible, having low permeability to water, good compactibility, cohesiveness, and relatively uniform texture, and free of large objects such as stones and boulders that may interfere with its intended purpose. Cover materials that are suitable include silty clay, sandy clay, clay loam, silty loam, and sandy loam. The well compacted soil shall be

James Andrew Hewitt
City of Akron, Department of Public Service
December 19, 2012
Page 3

seeded with grass or other vegetation to form a complete and dense cover. The replacement cap material needs to be installed on the entire area identified in the attached drawing.

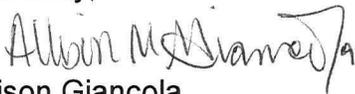
The proposed alteration to the Rack 40 2004 27-13 authorization as amended in April 2007 should specifically state that the additional cap repair will be completed within 90 days of approval of the alteration request mentioned in item 3 above.

No further information is required regarding the request for approval documentation from the U. S. Army Corps and Ohio EPA, Division of Surface Water.

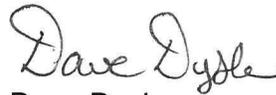
Nothing in this letter shall be construed to authorize any waiver from any requirements of applicable state solid waste laws or regulations. This letter shall not be interpreted to release the city of Akron or others from responsibility under ORC Chapters 3704, 3714, 3734, or 6111; under the Federal 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 Allison at (330) 963-1132 or Dave at (330) 963-1286.

Sincerely,



Allison Giancola
Environmental Specialist
Division of Materials and Waste Management



Dave Dysle
Environmental Specialist
Division of Materials and Waste Management

AG/DD/cl

Attachment: Site drawing indicating the area where cap restoration is to occur

cc: Kelly Jeter, DMWM, CO
Jennifer Bennage, DSW, NEDO
Marty Cooper, Legal, CO
Scott Hester, DMWM, CO
Julie Brown, Summit County Public Health
Jim Hall, Akron Department of Public Service
Michael Stepic, URS Consultants
Sean Volman, Assistant City Law Director
Terry Finn, Roetzel & Andress
File: [Sowers/COUN/Cuyahoga St. LF/COR/77]

