



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

June 17, 2013

**RE: Towpath Trail, Barberton, Summit County
Certification Report: OAC 3745-27-13(H)(10)
Ohio Brass Landfill
Notice of Deficiency & Return to Compliance**

Lisa King, Program Manager
Metro Parks Serving Summit County
975 Treaty Line Road
Akron, OH 44313

Dear Ms. King:

The Ohio Environmental Protection Agency (Ohio EPA) received a certification report on May 13, 2013 for the PPG Towpath Trail construction that affected the property owned by Wheeling & Lake Erie Railway and known as the Ohio Brass Landfill in Barberton, Ohio. The report was submitted by the Metro Parks, Serving Summit County (Metro Parks) and its contractors for the construction.

An Ohio Administrative Code (OAC) Rule 3745-27-13 authorization (Rule 13 authorization) for construction of the Towpath Trail on Ohio Brass Landfill was approved on June 28, 2008. In accordance with Condition No. 13 of the Rule 13 authorization, Metro Parks shall submit to Ohio EPA a certification report not later than 60 days after completing the activities authorized through the approval in accordance with OAC Rule 3745-27-13(H)(10). A notice of violation letter was sent on April 29, 2013 informing Metro Parks that Ohio EPA had not yet received the certification report and that in order to return to compliance, Metro Parks must submit the report within 14 days. Metro Parks has submitted the certification report in accordance with that timeframe and therefore has returned to compliance. However, the certification report is not in accordance with OAC Rule 3745-27-13(H)(10) and does not demonstrate that the Towpath Trail construction was completed in accordance with the June 28, 2008 Rule 13 authorization.

The May 13, 2013 certification report is deficient and must be revised in order for Ohio EPA to continue its review. Deficiencies and comments are listed below. Revisions must be resubmitted before Ohio EPA can complete its review and concur with the certification report. Please submit one copy of the revised report to this office and one copy to the Summit County Health District. Additional comments and/or deficiencies may be noted upon subsequent review.

DEFICIENCIES

The following deficiencies have been identified:

1. **OAC Rule 3745-27-13(H)(10)(a)(ii)** states, in part: *If waste still remains on the property, the owner shall update any prior recorded notation on the deed to the property.*

It appears that the plat has been revised and is included in the certification report; however, the deed notation is not included. Please verify that both the revised plat and updated deed notation has been filed and recorded and include a copy of each in the certification report.

2. **OAC Rule 3745-27-13(H)(10)(a)(i) & (ii)** states, in part: *the plat or revised existing plat and notation on the deed to the property shall describe the acreage impacted by filling, grading, building, excavating...;and the exact location, depth, volume, and nature of waste disposed of at the site.*

The updated plat only includes the volume and quantity for the excavated material and added cap system. The plat and deed notation must include not only the acreage impacted by excavating activities, but also by filling and building activities, which include the installation of the Towpath Trail materials (asphalt, clean dirt, and crushed limestone) and any other items installed (security fence, gates, posts, drains, etc.). Also, the added crushed limestone used for the trail build-up through the land depression is considered a filling activity. The deed notation and plat must be revised to describe the acreage impacted by filling and building on Ohio Brass Landfill. The deed notation must show the exact location of the impacts (added crushed limestone, security fence, gates and other items installed) and estimate the depth and volume of the impacts (added material for the trail construction, added fill for trail build-up).

3. **OAC Rule 3745-27-13(H)(10)(b)** states: *A notarized statement that if a protective layer, engineered cap, or surface soil on the site was disturbed, to the best of the owners or operators knowledge, the protective layer, engineered cap, or surface soil has been restored to a condition more protective than or equivalent to the condition prior to the activities being performed on the site.*

Metro Parks did provide a notarized statement; however, the statement did not include the language above required by the rule. The notarized statement must say that to the best of your knowledge, the engineered cap and surface soils on Ohio Brass Landfill that were disturbed have been restored to a condition more protective or equivalent to the condition prior to the activities being performed on the site. Please revise and resubmit the notarized statement accordingly.

4. Condition No. 6 of the June 28, 2008 Rule 13 authorization requires any portion of the landfill where the cap is removed by activities authorized by this approval to have the final cover system re-established in accordance with material, construction and testing specifications, which are outlined as part of this condition. The certification report states that waste was excavated over a 1,847 square yard area of the landfill and a 2-foot thick cap was installed over the excavated area. The certification report does not contain documentation to demonstrate that the soils used as part of the landfill cap are in accordance with the material, testing and construction specifications as outline in Condition No. 6. Please provide the appropriate documentation to demonstrate that the cap system was installed in accordance with the Rule 13 authorization.
5. The certification report states that the landfill cap construction on the excavated area is 2-feet thick. The daily reports provided by the contractor do not provide adequate information to verify that the cap is 2-feet thick. The daily reports document two in-place density test results: one test is for 12-inches of soil at 170' west of tunnel and the other test is for 12-inches of soil at 35' west of tunnel. The tests are not in the same location; therefore, is not clear if 2-feet of soil has been placed over the entire 1,847 square feet where the cap has been installed.

Metro Parks can either provide additional test results, if available, to verify that 2-feet of soil has been installed, or Shelby tube testing can be done on site over a wide range of the area (every 75 feet) to verify the soil thickness. Please provide documentation to verify the thickness of the cap installation.

6. The plan sheets provided (sheets 1-3) do not show the entire Towpath Trail installation on the Ohio Brass Landfill and stop around station mark 53+00. The Towpath Trail extends along the Ohio Brass Landfill and across the Tuscarawas River. Please include plan drawings of the Towpath Trail construction extending the full length of the Ohio Brass Landfill and include the details of the bridge extension across the Tuscarawas River.
7. Plan drawings were provided from the Rule 13 authorization showing the proposed plan profile of the Towpath Trail and also included the following items that were proposed to be installed: 2-foot wide berm surrounding the perimeter of the trail, retaining wall, grouted rock channel protection, guardrails, fence lines, bollards, posts, utility poles, trench drains, solar panel, inlet protection and gates. In order to determine compliance with the Rule 13 authorization, Metro Parks should provide the as-built drawings of any items installed on the Ohio Brass Landfill to verify what was constructed compared to what was proposed in the Rule 13 authorization. The as-built drawings should show the construction activities and installations with an as-built detail of the trail profile (showing grades, elevations, slopes for storm water control and dimensions) and the tunnel (showing plan details, elevations,

specification, materials, and dimensions). Please provide as-built drawings as specified above for the Towpath Trail and tunnel, as well as, all other items installed.

8. In order to determine compliance with the Rule 13 authorization, please revise the narrative to describe the activities completed on the Ohio Brass Landfill. If daily logs were completed by the contractor, please provide those as well. The following should be summarized in the narrative:
 - a. The construction of the Towpath Trail, including the quantity, location and specifications of the materials used for construction of the trail including asphalt, crushed limestone, Type B/C rock material, and clean dirt;
 - b. Chip and seal section of the Towpath Trail proposed in the Rule 13 authorization;
 - c. 2-foot wide berm surrounding perimeter of Towpath Trail;
 - d. All items installed as part of the project, such as the security fence, gates, retaining wall, grouted rock channel protection, guardrails, bollards, posts, utility poles, trench drains, solar panel, inlet protection, etc.
9. In order to determine compliance with Condition No. 10, which states, in part, "For the purposes of erosion control during all phases of construction and investigation of the landfill, Metro Parks shall use best management practices and standards as specified in the manual titled Rainwater and Land Development..." Please describe any storm water control measures put in place for erosion and sediment control during construction activities on the Ohio Brass Landfill.
10. PPG Lime Lake waste is identified on plan sheet 1 of 3, but there is no discussion regarding the waste found and how it was removed, characterized, treated or disposed of properly. Please discuss this in the certification report and reference your coordination with the Ohio EPA, Division of Environmental and Remedial Response-RCRA unit. Also, please provide the waste analysis results, the disposal method selected, the letter of acceptance from the treatment or disposal facility, and if disposed, the waste receipts.
11. The Rule 13 authorization was stamped and signed by a licensed professional engineer. The certification report must also be stamped and signed by a licensed professional engineer. The activities conducted on the Ohio Brass Landfill constitute in the practice of engineering and therefore, must be sealed by a licensed professional engineer in accordance with OAC Rule 3745-27-99 (B)(3)(a).

Lisa King, Program Manager
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COMMENTS

The following comments have been identified:

1. Please clarify the date the contours were surveyed for the three colored plan sheets that indicate the excavated and disturbed areas.
2. Describe or provide specifications of the geogrid and geotextile used throughout the length of the trail.
3. Plan sheet 2 of 3 shows Type C rock as installed along the trail edge at the wet depression. The narrative discusses crushed #1 and #2 limestone, and Type B limestone being placed along the low edge of the trail as erosion protection. The narrative and drawing do not correspond. Please clarify and revise the application accordingly.

If you have any questions, feel free to contact me at (330) 963-1132, or at Allison.giancola@epa.ohio.gov.

Sincerely,



Allison Giancola, RS, EIT
Environmental Specialist
Division of Materials and Waste Management

AMG/cl

ec: Dave Dysle, DMWM-NEDO
Scott Hester, DMWM-CO

cc: Julie Brown, Summit County Public Health
Paul Wilkerson, Metro Parks
Honorable Bill Judge, Mayor, City of Barberton
File: [Sowers/COUN/Ohio Brass Landfill/COR/77]
DMWM #5083