



State of Ohio Environmental Protection Agency

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Columbus, Ohio 43216-1049

Mr. Tom Marshall, Ph.D., P.E.
Director of Public Utilities
City of Delaware
3080 U.S. 23 North
Delaware, Ohio 43015

**Re: Cherry Street Landfill, Delaware County
Ohio Administrative Code Rule 3745-27-13 Authorization**

Dear Mr. Marshall:

On March 3, 2003, the City of Delaware (City) was issued an Ohio Administrative Code (OAC) Rule 3745-27-13 authorization to excavate waste from a portion of the Cherry Street Landfill. The excavation of waste is needed for the placement of a final settling tank due to the expansion of the City's wastewater treatment plant.

On March 17, 2003, the City submitted an OAC Rule 3745-27-13 request to modify the activities set forth in the March 3, 2003, authorization. In addition to the placement of the final settling tank, the City has requested to place aeration tanks on a portion of the landfill and excavation of additional waste would be needed. The request proposes to relocate the waste removed from the excavations to another area of the landfill. This request for authorization to engage in filling, grading, excavating, building, mining, and drilling activities was submitted in accordance with the provisions of Ohio Administrative Code (OAC) Rule 3745-27-13 and supersedes the March 3, 2003, authorization.

Based upon review of the submitted request, Ohio EPA has determined that the proposed activities, if conducted in accordance with the following conditions, will not result in 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, you are hereby authorized to perform the above activities in accordance with the submitted request and the following conditions:

1. The Director of Environmental Protection (Director), or a representative authorized by the Director, may enter the premises of the Cherry Street Landfill at any time to inspect, conduct tests, or examine records and reports pertaining to the authorized activities.
2. This authorization may be revoked by the Director if, at any time, any applicable laws have been or are likely to be violated or if continued implementation of the authorized activities may cause a threat to public health or safety or the environment.

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

3. Backfill around the final settling tank and aeration tanks shall be of a low permeability soil and compacted and graded with a slope falling away from the tanks.
4. Any of the existing gas monitoring wells damaged or destroyed during construction shall be replaced upon completion of the work.
5. All permits required by Ohio EPA, Division of Surface Water must be obtained prior to final placement of the tanks.
6. Any 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, surface water run off, and protection of ground water.
7. All waste removed during construction activities shall be characterized as proposed in Section 10 on page 5 of this request. If the waste is determined to be hazardous, the waste shall be disposed in accordance with ORC Chapter 3734 and regulations promulgated thereunder.
8. All excavated solid waste shall be relocated in the area shown in attachment 10 of the request. The cap shall be removed and excavated waste shall be compacted on top of the existing waste before restoring the cap in accordance with attachment 9, *Standards for Current Construction of a 1976 Cap System*.
9. 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 City 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.

You are hereby notified that this action of the Director of Environmental Protection is final and may be appealed to the Environmental Review Appeals Commission (Commission) pursuant to Ohio Revised Code Section 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. It must be filed with the Commission within thirty (30) days after notice of the director's action. A copy of the appeal must be served on the Director within three (3) days of filing with the Commission. An appeal may be filed with the Commission at the following address:

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Environmental Review Appeals Commission
236 East Town Street,
Room 300
Columbus, Ohio 43215.

If you have any questions concerning this authorization, please contact Laura Parkinson, Ohio EPA Central District Office at (614) 728-3889.

Sincerely,

Christopher Jones
Director

Attachments

cc: Julia Miller, PE, Sharp & Associates, Inc., w/attachments
Doug Sams, Delaware General Health Department, w/attachments
Duane Snyder, DSIWM, CDO, w/attachments
Scott Hester, DSIWM, CO, w/attachments
Greg Sanders, DSW, CDO, w/o attachments