



State of Ohio Environmental Protection Agency

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Mr. Lawrence K. English  
Assistant General Counsel  
Northeast Ohio Regional Sewer District  
3900 Euclid Avenue  
Cleveland, Ohio 44115-2506

**Re: Northeast Ohio Regional Sewer District, Southerly Waste Water Treatment Plant,  
Cuyahoga County  
Ohio Administrative Code (OAC) Rule 3745-27-13 Authorization**

Dear Mr. English:

On August 12, 2005, the Ohio Environmental Protection Agency (Ohio EPA), Division of Solid and Infectious Waste Management (DSIWM), Northeast District Office (NEDO) received a request titled Application for Authorization Pursuant to Rule 13 to Engage in Filling, Grading, Excavating, Building, Drilling, or Mining, from the Northeast Ohio Regional Sewer District (NEORSD), pursuant to OAC Rule 3745-27-13, to engage in filling, grading, excavating, building, drilling, or mining activities at the NEORSD - Southerly Waste Water Treatment Plant (SWWTP) located in Cuyahoga County. Ohio EPA received revisions to the request on September 6, 2005; November 17, 2005; March 10, 2006; and March 16, 2006.

OAC Rule 3745-27-13 requires authorization from the director of Ohio EPA (Director) before engaging in filling, grading, excavating, building, drilling, or mining on land where a solid waste facility was operated. Specifically, NEORSD is proposing to reconsolidate approximately 7,900 cubic yards of waste water treatment sludge incinerator ash, some of which is contaminated with cobalt (Co-60), in the North Fill Area (NFA) of the SWWTP over a 15-year period. Similar types of ash were placed in the NFA in the past. The primary purpose of the approval is to enable NEORSD to perform a number of capital improvement projects during this period, which will improve the treatment processes at SWWTP. This approval will also allow the sewer district to promptly and effectively address maintenance and repair situations that may involve the extraction of soil containing wastewater treatment sludge incinerator ash, some of which contains Co-60.

This approval also contains an exemption from OAC Rule 3745-27-13(H)(6), pursuant to OAC Rule 3745-27-03(B), to allow NEORSD to relocate excavated waste in areas of the facility that will cause the final vertical limits of waste placement and final grades to be above the existing limits of waste placement.

Bob Taft, Governor  
Jennette Bradley, Lieutenant Governor  
Joseph P. Koncelik, Director

Based upon a review of the August 12, 2005, document, as revised, I have determined, pursuant to OAC Rule 3745-27-13, that the proposed activities will not result in violation of applicable laws or regulations, will not create a nuisance, and are unlikely to adversely affect the public safety or health or the environment. Therefore, NEORSD is hereby authorized to perform the activities outlined in this letter in accordance with the submitted and approved plans, specifications, and information.

As part of this authorization, NEORSD is subject to the following conditions:

### **CONDITIONS**

1. This approval grants NEORSD authorization to perform activities at the SWWTP in accordance with the document titled Application for Authorization Pursuant to Rule 13 to Engage in Filling, Grading, Excavating, Building, Drilling, or Mining and subsequent revisions received on September 6, 2005; November 17, 2005; March 10, 2006; and March 16, 2006. 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 SWWTP may require additional Ohio EPA approval.
2. All 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 and runoff, and protection of ground water.
3. All on-site activities shall be performed in a manner that prevents migration of leachate, explosive gas, or toxic gas from the SWWTP.
4. All activities undertaken shall not create a nuisance and shall not adversely affect the public safety or health or the environment.
5. All solid waste to be removed from the property during activities authorized through this approval 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.
6. All liquids, semi-solids, industrial wastes, and other wastes regulated by ORC Chapter 6111 that are removed from the property during intrusive activities shall be containerized and securely stored until these materials are properly characterized and disposed in accordance with ORC Chapter 6111 and regulations promulgated thereunder.
7. Prior to any removal of waste or contaminated soil from the property, NEORSD 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).

8. For the purposes of erosion control, NEORSD shall use best management practices and standards as specified in the Ohio Department of Natural Resources manual titled Rainwater and Land Development.
9. No excavation of waste shall occur unless the excavated waste is replaced within previously existing horizontal limits of waste placement or is treated or disposed of at a licensed, permitted treatment or disposal facility, in accordance with ORC Chapter 3734 and the regulations promulgated thereunder. In no event shall waste be placed at any elevation lower than existing waste elevations at any given location.
10. If excavation occurs outside the limits of waste placement at the NFA, NEORSD shall not use material consisting of solid or hazardous waste to backfill the excavated areas.
11. Not later than forty-eight (48) hours prior to the start of each of the projects (A) through (H), as detailed on pages eight through ten of the request, NEORSD shall submit written notification, which specifies the anticipated dates of work commencement and completion of each project, to Ohio EPA, NEDO.
12. The waste consolidation activities authorized in this approval shall cease no later than March 31, 2021.
13. Final closure activities of the NFA shall begin no later than April 17, 2021.
14. Final closure activities of the NFA shall be completed no later than September 30, 2021.
15. NEORSD shall submit a closure certification report for the NFA to Ohio EPA, NEDO no later than December 31, 2021.
16. In accordance with OAC Rule 3745-27-13(M), this authorization shall terminate three (3) years after its effective date if NEORSD has not begun the activities authorized herein.
17. The director may revoke this authorization if NEORSD violates, or is likely to violate, any applicable law or if the continued implementation of the approved plans causes a threat to human health or safety or the environment.
18. Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state solid waste laws or regulations, except as specified herein. This letter

shall not be interpreted to release NEORSD 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 to the environment.

### **OAC Rule 3745-27-03(B) Exemption**

NEORSD has requested an exemption from OAC Rule 3745-27-13(H)(6), which states, in part, that no excavation of waste can occur unless that excavated waste is replaced within previously existing horizontal and vertical limits of waste placement or is treated or disposed of at a licensed, permitted treatment or disposal facility, in accordance with ORC Chapter 3734 and the regulations promulgated thereunder.

As part of the activities approved through this authorization, NEORSD will be excavating and removing waste from the limits of waste placement of the facility and placing relocated waste in other areas within the current facility. All waste movement will occur within the current horizontal limits of waste placement, and in no event will waste be placed at elevations lower than existing vertical limits of waste placement. However, as a result of these activities, the final vertical limits of waste placement and final grades will be above the existing limits of waste placement in certain areas.

Pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), the director may, by order, exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, or processing solid wastes that consist of scrap tires, in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment, from any requirement to obtain a registration certificate or license or comply with other requirements of ORC Chapter 3734.

Ohio EPA has reviewed the August 2005 request, as revised, and associated information and has determined that placing waste in areas of the facility that results in placing waste above previously existing vertical limits of waste placement is unlikely to adversely affect the public health or safety or the environment. Therefore, pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), NEORSD is hereby exempted from OAC Rule 3745-27-13(H)(6), which requires, in part, that excavated waste is replaced within previously existing horizontal and vertical limits of waste placement or is treated or disposed of at a licensed, permitted treatment or disposal facility, in accordance with ORC Chapter 3734 and the regulations promulgated thereunder, provided NEORSD complies with the requirements of the OAC Rule 3745-27-13 authorization.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission (Commission) pursuant to ORC 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:

Mr. Lawrence K. English  
Northeast Ohio Regional Sewer District  
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Environmental Review Appeals Commission  
309 South Fourth Street  
Room 222  
Columbus, Ohio 43215

If you have any questions concerning this authorization, please contact Mr. Jerry Parker of Ohio EPA, NEDO at (330) 963-1186.

Sincerely,

Joseph P. Koncelik  
Director

JPK/MM/sw

cc: Eric Adams, DSIWM-NEDO  
Scott Hester, DSIWM-CO  
Bill Skowronski, Chief, NEDO  
Dennis Lee, DSW-NEDO  
Ruth Vandegrift, Ohio Department of Health