



**Environmental
Protection Agency**

Ted Strickland, Governor
Lee Fisher, Lt. Governor
Chris Korleski, Director

OHIO E.P.A.

DEC 30 2010

ENTERED DIRECTOR'S JOURNAL

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

DEC 30 2010

Michael J. Teodecki, P.E.
Akron Engineering Bureau
166 South High Street, Room 701
Akron, Ohio 44308

By: 

Date: 12.30.2010

**Re: Seiberling Street Landfill, Goodyear/Riverwalk Project, Summit County
Ohio Administrative Code (OAC) Rule 3745-27-13 Authorization and
Exemption**

Dear Mr. Teodecki:

On August 20, 2010, the Ohio Environmental Protection Agency (Ohio EPA) received an August 19, 2010 document titled, *Rule 13 Authorization Application, Investigative Activities, Seiberling Street Landfill, Akron, Ohio*. Revisions to the document were received on September 24, 2010, October 27, 2010, and December 14, 2010. This document was submitted in accordance with OAC Rule 3745-27-13(E) for geotechnical borings over a portion of the former Goodyear Tire and Rubber Company Seiberling Street Landfill, currently owned by Industrial Realty Group (IRG). The submittal was prepared by URS Corporation on behalf of the City of Akron (Akron). Akron is seeking approval to perform a geotechnical exploration at the closed Seiberling Street Landfill (Facility) to ultimately design and construct a roadway and related structures on the site.

OAC Rule 3745-27-13 requires authorization from the Director of the Ohio EPA (Director) before engaging in filling, grading, excavating, building, drilling, or mining on land where a solid waste facility was operated. Specifically, Akron proposes to investigate borings and test pit excavations, restore the borings and test pits, and install monitoring wells in preparation for design and construction of a roadway and related structures on the site.

Based upon review of the request and subsequent revisions, I have determined, pursuant to OAC Rule 3745-27-13, that the proposed activities, if conducted in accordance with the request and 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, Akron 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, Akron is subject to the following conditions:

CONDITIONS

1. This approval grants authorization to perform activities at the Facility in accordance with the August 19, 2010 document titled *Rule 13 Authorization Application, Investigative Activities, Seiberling Street Landfill, Akron, Ohio* received August 20, 2010, and subsequent revisions received September 24, 2010, October 27, 2010, and December 14, 2010. 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.
2. Not later than seventy-two (72) hours prior to the start of the activities associated with this authorization, Akron shall submit written notification, which specifies the anticipated date of commencement, to Ohio EPA, DSIWM, NEDO and the City of Akron Health Department.
3. 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 run-off, and protection of ground water.
4. All on-site activities shall be performed in a manner that prevents migration of leachate, explosive gas, or toxic gas from the Facility.
5. All activities undertaken shall be not create a nuisance and shall not adversely affect public safety or health or the environment.
6. All solid and/or hazardous 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.
7. All liquids, semi-solids, industrial wastes, and other wastes regulated by ORC Chapter 6111 that are removed during intrusive activities shall be containerized and securely stored until these materials are properly characterized and disposed in accordance with ORC Chapter 6111 and the regulations promulgated thereunder.
8. Prior to any removal of waste or contaminated soil from the Facility, 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, DSIWM, NEDO, pursuant to OAC Rule 3745-27-13 (H)(4).

9. Not later than sixty (60) days after completing the activities authorized by this approval, Akron shall submit to Ohio EPA, DSIWM, NEDO a certification report in accordance with OAC Rule 3745-27-13(H)(10).
10. Akron shall take measures to control fugitive dust and other air emissions that may result from activities authorized by this approval.
11. For the purposes of erosion control during investigation of the landfill, Akron shall use best management practices and standards as specified in the National Resources Conservation manual titled *Rainwater and Land Development* prepared by the Ohio Department of Natural Resources, Division of Soil & Water Conservation.
12. Any portion of the landfill where the final cover system is removed or damaged by activities conducted pursuant to this authorization shall have the final cover system re-established in accordance to OAC Rule 3745-27-13(H)(9).
13. No boring or excavation shall occur unless the 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.
14. If boring or excavation occurs outside the limits of waste placement at the Facility, Akron shall not use material consisting of solid or hazardous waste to backfill the bored or excavated areas.
15. In accordance with OAC Rule 3745-27-13(M), this authorization shall terminate three (3) years after its effective date if Akron has not begun the activities authorized herein.
16. In accordance with OAC Rule 3745-27-13(K), the Director may revoke this authorization if Akron violates, or is likely to violate, any applicable law or if continued implementation of the authorized plans may cause a threat to human health or safety or the environment.

END OF CONDITIONS

EXEMPTION FROM OAC RULE 3745-27-13(H)(10)(a)

On behalf of the City of Akron (Akron), URS Corporation-Ohio (URS) has requested an exemption from OAC Rule 3745-27-13(H)(10)(a) which requires, in part, that the owner or operator shall include in the certification report verification to Ohio EPA that the following activities have been completed:

- i. the owner or operator has filed with the board of health having jurisdiction and with Ohio EPA, a plat or revised existing plat for the unit(s) of the solid waste facility or hazardous waste facility and information describing the acreage, exact location, depth, volume, and nature of the waste deposited in the unit(s) of the solid waste facility or hazardous waste facility that was impacted by the filling, grading, excavating, building, drilling, or mining activities;
- ii. if waste still remains on the property, the owner shall update any prior recorded notation on the deed to the property, in accordance with state law, to notify any potential purchaser of the property that the land has been used as a hazardous waste facility or solid waste facility and that its use is restricted. The notation shall describe the acreage impacted by the filling, grading, excavating, building, drilling, or mining activities; and the exact location, depth, volume, and nature of waste disposed of at the site.

A deed notation indicating the existence and general location of previously disposed waste for the Seiberling Street Landfill was recorded on May 22, 2009 for two parcels delineated as Parcel 10 (Summit County Parcel Number 6763115) and Parcel 11 (Summit County Parcel Number 6763116). The deed notation (document number 55625339) remains in the chain of title for the Seiberling Street Landfill as recorded in reference to document number 55589992, in the Summit County Recorder's Office. As part of the activities approved through this authorization, Akron will be investigating borings and test pit excavations, restoring the borings and test pits, and installing monitoring wells in preparation for design and construction of a roadway and related structures on the site. As specified in the request, the investigative work is not intended to change the location or amount of waste on the property previously documented. Additionally, if the information obtained during the investigation requires a revision to the current recorded deed notation, the existing deed notation will be revised as appropriate.

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

requirements to obtain a registration certificate or license or comply with other requirements of ORC Chapter 3734.

Ohio EPA has reviewed the exemption request received on October 27, 2010 and associated information. Because the amount and location of waste on the property has been previously documented on the May 22, 2009 deed notation, and because the investigative work authorized herein is not intended to change the amount or location of waste on the property as previously documented, and because the previously documented deed notation will be revised if necessary based on information obtained during the investigation, granting an exemption from the requirement of OAC Rule 3745-27-13(H)(10) to include verification that the owner or operator has filed a plat or revised plat and recorded a deed notation is unlikely to adversely affect public health or safety or the environment. Therefore, pursuant to ORC Section 3734.02(G) and OAC Rule 3745-27-03(B), Akron is hereby exempted from the requirement to include, as part of the certification report, verification that the activities specified in OAC Rule 3745-27-13(H)(10)(a)(i) and (a)(ii) have been completed. If a revision of the previously documented deed notation becomes necessary based on the information obtained during the investigation, Akron shall ensure that an appropriate revision to the previously recorded deed notation is recorded.

END OF EXEMPTION

Nothing in this letter shall be construed to authorize any waiver from any requirements of applicable federal or state laws or regulations except as specified herein. This authorization shall not be interpreted to release 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, 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.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals 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. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Ohio Treasurer Kevin Boyce," which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Michael J. Teodecki
Akron Engineering Bureau
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Environmental Review Appeals Commission
309 South Fourth Street
Room 222
Columbus, Ohio 43215

Activities authorized under this letter have not been examined for compliance with Ohio's Voluntary Action Program (VAP). If such a review is desired, Akron may seek technical assistance through Ohio EPA's Division of Emergency and Remedial Response (DERR). If you have any questions concerning this authorization, please contact Allison Giancola of Ohio EPA, NEDO at (330) 963-1132.

Sincerely,



Chris Korleski
Director, Ohio EPA

cc: Lynn Sowers, DSIWM-NEDO
Dave Dysle, DSIWM-NEDO
Nancy Zikmanis, DERR-NEDO
Marty Cooper, Ohio EPA Legal
Julie Brown, City of Akron Health Department
Michael J. Stepic, URS Corporation