



John R. Kasich, Governor  
Mary Taylor, Lt. Governor OHIO E.P.A.  
Craig W. Butler, Director

JUN 29 2015

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ENTERED DIRECTOR'S JOURNAL

Jason Ziss  
Kurtz Bros., Inc.  
6415 Granger Road  
Independence, Ohio 44131

Re: Kurtz Bros., Inc.  
Permit- Short Term  
Approval Exemption  
Beneficial Use  
Cuyahoga County  
BENU020977

**Subject: Kurtz Bros., Inc.  
Land Application Management Plan Permit Approval and Exemption  
Dredged Material from Cuyahoga County Port Authority Confined  
Disposal Facility**

Effective Date: June 29, 2015

Expiration Date: June 28, 2020

Dear Mr. Ziss:

The Ohio Environmental Protection Agency (Ohio EPA) has reviewed the land application management plan (LAMP) permit application received April 14, 2015, submitted by Kurtz Bros., Inc (KBI), pursuant to Ohio Revised Code (ORC) Chapters 6111 and 3734 for the proposed beneficial use of dredged material from the lower Cuyahoga River generated by the United States Army Corps of Engineers (USACE). The dredged material is located at the Cuyahoga County Port Authority Confined Disposal Facility (CDF) No. 12, at 110 West 9<sup>th</sup> Street #300, Cleveland, Ohio (Facility). The submitted LAMP permit application proposes to use dredged material from test pits 4, 5, 6 and 9 of CDF No. 12 for identified industrial and commercial uses only. Additional information regarding specific projects and uses of the dredged material was received from KBI on May 18, 2015 and May 27, 2015.

Through dredging, the USACE removes sediment, in its natural or recently deposited condition, from the bottom of the federal navigation channel along the lower Cuyahoga River. The sediment is the product of erosion that has disaggregated soil into sand, silt, clay, and organic matter that has settled out onto the bottom of the channel. Once the dredged material has been collected, it is transported for disposal in the CDF. The submitted LAMP permit application proposes to use only dredged material located in CDF No. 12, test pits 4, 5, 6 and 9 from a depth of 0' to 6'.

KBI intends to use the dredged material for specific industrial and commercial uses only. The proposed uses are limited to the following:

- 1) Ohio Department of Transportation (ODOT) will use approximately 12,000 cubic yards of dredged material as structural fill under an existing bridge underpass on I-90 that will be eliminated. The bridge underpass is located at the intersection of Babbitt Road and I-90 near downtown Cleveland, Ohio.
- 2) ODOT will use approximately 11,000 cubic yards of dredged material for widening and bridge reconstruction on I-271 at the intersection of I-271 and SR-82 in Macedonia, Ohio. The dredged material will primarily be used as backfill for mechanically stabilized earth wall construction.
- 3) Approximately 3,000 cubic yards will be used by Nerone & Sons, a private contractor on a Cuyahoga County project, as sewer line utility backfill at the I-77 and SR-82 interchange reconstruction.

Pursuant to the authority under ORC Chapters 6111 and 3734, this LAMP permit for KBI is approved subject to compliance with all conditions below.

To the extent that this material may be considered a solid waste and would require KBI to obtain a permit and license under ORC Chapter 3734 and the rules promulgated thereunder, the director has determined that granting an exemption from the applicable solid waste provisions of ORC Chapter 3734 to use dredged material, in quantities and under the circumstances specifically authorized in this LAMP permit, is unlikely to adversely affect the public health or safety or the environment. Therefore, pursuant to ORC Section 3734.02(G), KBI and any recipient of the dredged material generated from the Facility are hereby exempted from the applicable solid waste provisions of ORC Chapter 3734 and rules adopted thereunder specific to the land application of dredged material as authorized in this permit approval.

### **CONDITIONS**

1. This LAMP permit authorizes KBI to beneficially use dredged material managed in accordance with the LAMP permit application received April 14, 2015 and revised on May 18, 2015 and May 27, 2015. Only dredged material generated from the Facility, as identified in the attached LAMP permit application, which is incorporated herein, is eligible for beneficial use under this permit. Beneficial use of the dredged material is limited to the three projects specified above.
2. KBI shall provide a copy of the LAMP permit authorization, including the LAMP permit application, to the recipient of any dredged material intended for beneficial use.
3. The Director, or his authorized representative(s), may enter upon the premises of the Facility at any reasonable time, for the purpose of conducting inspections, collecting samples of dredged material, conducting tests, or examining records or reports pertaining to the beneficial use of dredged material.

4. Issuance of this permit does not relieve KBI of the duty to comply with all applicable federal, state, and local laws, ordinances, and regulations, except as exempted herein.
5. Storage and blending of the dredged material shall not create a nuisance and shall not adversely affect public safety or health or the environment. Should a nuisance condition develop, or a determination be made by Ohio EPA that storage or blending of dredged material is a threat to human health or the environment, then permission to use this material may be revoked upon written notification from the Director. Immediately upon the effective date of any such revocation, KBI shall cease application of dredged material.
6. KBI shall not cause pollution to any waters of the state and shall only discharge to waters of the state in accordance with an effective national pollutant discharge elimination system (NPDES) permit, if required. KBI shall report any unauthorized discharges to waters of the state to Ohio EPA by calling (800) 282-9378, within 2 hours of discovery.
7. KBI shall notify the Director in writing within seven days if KBI discovers noncompliance with this LAMP permit. The Director may add, delete, or change any conditions to this LAMP permit to protect human health or the environment.
8. The following records shall be maintained by KBI for a minimum of 5 years and shall be made available to Ohio EPA upon request:
  - a. The name, address, and telephone number of all recipients of dredged material from KBI for beneficial use.
  - b. Records of the volume of dredged material designated for beneficial use under this approval.
9. Not later than 30 days after completing beneficial use of dredged material for any project specified above, KBI shall submit an end-of-project report that identifies the specific project and the volume of dredged material used in the project, in cubic yards.
10. In the report, KBI shall include the following printed and signed certification statement.

*"I certify, under penalty of law, that the information contained in this annual report that will be used to determine compliance with the requirements contained in ORC Chapters 6111 and 3734, and all rules thereunder, for the calendar year (insert previous calendar year) was prepared under my direction and supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate this information. I am aware that there are significant penalties for false certification, including the possibility of fine and imprisonment."*

The end-of-project report shall be sent to the following address:

Ohio EPA – DMWM  
Authorizing Actions and Engineering Unit  
P. O. Box 1049  
Columbus, Ohio 43216-1049

11. This permit to beneficially use dredged material from KBI shall expire at midnight on the expiration date shown above. In order to receive authorization to beneficially use dredged material beyond the above date of expiration, KBI shall submit such information and forms as are required by Ohio EPA no later than 180 days prior to the above date of expiration.

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 which the Commission, in its discretion, may reduce if by affidavit it is demonstrated 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:

Environmental Review Appeals Commission  
77 South High Street, 17<sup>th</sup> Floor  
Columbus, Ohio 43215

Sincerely,



Craig W. Butler  
Director

PC

cc: Jason Ziss, KBI  
Jarnal Singh, DMWM, NWDO