



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

APRIL 5, 2018

Village of Cuyahoga Heights
Attn: Mayor Jack M. Bacci
4863 East 71st Street
Cuyahoga Heights, Ohio 44125

Cuyahoga Heights
Community Investment Corporation
Attn: President Jack M. Bacci
4863 East 71st Street
Cuyahoga Heights, Ohio 44125

Re: Boyas Excavating Nicky
Boulevard Landfill
Director's Authorization
Approval
Residual Solid Waste Landfills
Cuyahoga County
RSWL019874

Ohio EPA APR 5 '18
Entered Directors Journal

**Subject: Nicky Boulevard Landfill, Cuyahoga County
Ohio Administrative Code (OAC) Rule 3745-27-13 Authorization**

Dear Mayor Bacci:

On October 2, 2017, the Ohio Environmental Protection Agency (Ohio EPA), Division of Materials and Waste Management (DMWM), Northeast District Office (NEDO) received a request, dated October 2, 2017, titled "OAC Rule 3745-27-13 Authorization Request, Storm Sewer Extension and Slope Stabilization, Closed Nicky Boulevard Landfill, Cuyahoga County, Ohio" (Request). The Request was submitted in accordance with Ohio Administrative Code (OAC) Rule 3745-27-13(E) by Donald G. Bohning & Associates, on behalf of the Village of Cuyahoga Heights (Village), for the closed Nicky Boulevard Landfill (Facility) located in the Village of Cuyahoga Heights, Ohio. On February 9, 2018, DMWM, NEDO received a letter from the Village requesting that the Rule 13 authorization be issued on behalf of both the Village and Cuyahoga Heights Community Investment Corporation (CIC).

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. The Facility operated as a municipal solid waste landfill prior to 1966 when it was purchased by Boyas Contributions, LLC, the current owner. Thereafter, it was used to dispose of non-putrescible construction and demolition debris and some industrial waste until 1990. The Village is requesting to place clean, durable, non-waste fill material within the drainage ravines and above the existing plateau

as part of a storm sewer extension and retention basin construction project taking place outside of the limits of waste placement.

Based upon a review of the Request, I have determined, pursuant to OAC Rule 3745-27-13, that the proposed activities, if conducted in accordance with the Request as submitted on October 2, 2017, and as revised through January 22, 2018, 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 public safety or health or the environment. Therefore, the Village and CIC are hereby authorized to perform the activities outlined in this letter in accordance with the plans, specifications, and information submitted as part of the Request.

As part of this approval, the Village and CIC are subject to the following conditions:

CONDITIONS

General Conditions:

1. This approval grants authorization to perform activities at the Facility in accordance with the Request as submitted on October 2, 2017, and last revised on January 22, 2018. All activities shall be conducted in strict accordance with the plans, specifications, and other information submitted as part of the 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, the Village or CIC shall submit written notification, which specifies the anticipated date of commencement, to Ohio EPA, DMWM, NEDO and the Cuyahoga County Board of Health.
3. Access shall be allowed at the Facility to the Director or a representative authorized by the Director at any time to make inspections, conduct tests, or examine records and reports pertaining to the authorized activities.
4. 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.

Operational Conditions:

5. OAC Rule 3745-27-13(G)(3)(c)

Any 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 of in accordance with Ohio Revised Code (ORC) Chapter 3734 and the regulations promulgated thereunder.

6. ORC Chapter 6111

Any 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 of in accordance with ORC Chapter 6111 and the regulations promulgated thereunder.

7. OAC Rule 3745-27-13(H)(4)

Prior to any disposal of waste or contaminated soil from the Facility, the Village or CIC 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, DMWM, NEDO, pursuant to OAC Rule 3745-27-13(H)(4).

8. OAC Rule 3745-27-13(J)

All on-site activities shall be performed in a manner that:

- a. Prevents migration of leachate, explosive gas, or toxic gas from the Facility;
- b. Does not create a nuisance or adversely affect public safety or health or the environment;
- c. Controls fugitive dust and other air emissions; and
- d. Minimizes the potential for increased infiltration of surface water.

9. For the purposes of erosion control, the Village and CIC 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.

10. OAC Rule 3745-27-13(H)(6)

No boring or excavation shall occur within the limits of the waste placement unless any 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.

11. OAC Rule 3745-27-13(H)(7)

If boring or excavation occurs outside the limits of waste placement at the Facility, the Village and CIC shall not use material consisting of solid waste or hazardous waste to backfill the bored or excavated areas.

12. OAC Rule 3745-27-13(H)(10)

Not later than sixty (60) days after completing the activities authorized through this approval, the Village or CIC shall submit to Ohio EPA, DMWM, NEDO, a certification report in accordance with OAC Rule 3745-27-13(H)(10).

13. OAC Rule 3745-27-13(M)

This authorization shall terminate three (3) years after its effective date if the Village or CIC have not begun the activities authorized herein.

14. OAC Rule 3745-27-13(O)

The Director may revoke this authorization if the Village or CIC violates, or is likely to violate, any applicable law or if continued implementation of the approved plans may cause a threat to human health or safety or the environment.

Special Conditions:

15. Not later than one year after the date that notice was provided pursuant to Condition No. 2 of this approval, and not later than that calendar date every year thereafter until a certification report is submitted in accordance with Condition No. 12 of this approval, the Village or CIC shall submit an annual report to Ohio EPA, DMWM, NEDO which includes the following:

- a. The amount of soil placed on top of the limits of waste;
- b. A grading plan drawing depicting the top of waste grades and top of soil;
- c. The amount of waste relocated or removed and disposed; and,
- d. A depiction of the leachate riser installation and what has been finished to date.

END OF CONDITIONS

EXEMPTION FROM OAC RULE 3745-27-13(H)(6)

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, including scrap tires, from any requirement of ORC Chapter 3734 or any rules adopted thereunder if granting the exemption is unlikely to adversely affect public health, safety, or the environment.

The Village has requested an exemption from OAC Rule 3745-27-13(H)(6), which requires that no excavation of waste shall occur unless the excavated waste is replaced within the 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 3745 and the regulations promulgated thereunder. Though the Village and CIC do not anticipate encountering waste during the project, in the event waste is encountered, the Village and CIC intend to relocate that waste above the existing vertical limits of waste placement and re-establish the final cap system.

Ohio EPA has reviewed the request and has determined that, because the relocation of waste materials will occur within the previously existing horizontal limits of waste placement and a final cap system will be re-established over the relocated waste materials, granting the Village and CIC an exemption to relocate waste materials above the previously existing limits of waste placement 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), the Village and CIC are hereby exempted from the requirement of OAC Rule 3745-27-13(H)(6) as it applies to the placement of waste materials above the previously existing vertical limits of waste placement during the performance of activities described in the Request, provided that the Village and CIC strictly comply with all conditions of this authorization. This exemption shall remain in effect throughout the effective period of this authorization unless otherwise revoked.

END OF EXEMPTIONS

Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable federal or state laws or regulations except as specified herein. This authorization shall not be interpreted to release the Village or CIC 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 "Treasurer, State of Ohio." The Commission, in its discretion, may reduce the fee 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
30 East Broad Street, 4th Floor
Columbus, Ohio 43215

Nicky Boulevard Landfill
OAC Rule 3745-27-13
Page 6 of 6

If you have any questions regarding this authorization, please contact Karen Naples of Ohio EPA, NEDO at (330) 963-1244.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Butler', with a horizontal line extending to the right.

Craig W. Butler
Director

ec: Dane Tussel, Cuyahoga County Board of Health
Todd Sciano, Donald Bohning & Associates
Scott Hester, Ohio EPA, Central Office, DMWM
Troy Harter, Ohio EPA, Central Office, Legal