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Ohio Environmental
Protection Agency
Southeast District

Mr. Joe Holland
Environmental Specialist II
Ohio Environmental Protection Agency
Southeast District Office
Division of Material & Waste Management
2195 Front Street
Logan, OH 43138

Dear Mr. Holland;

Subject: Request for Agreement – Surface Water Setback Requirement
Solid Waste Transfer Station Permit to Install Application
Weavertown Environmental Group
New Matamoras, Ohio
CEC Project 112-048

On behalf of Weavertown Environmental Group (WEG), Civil & Environmental Consultants, Inc. (CEC) is submitting this request to the Ohio Environmental Protection Agency (Ohio EPA) Southeast District Office (SEDO) for written agreement regarding the surface water setback criteria for a proposed solid waste transfer station permit to install (PTI) application. The proposed transfer station will be located near New Matamoras, Ohio in Grandview Township, Washington County, Ohio (Figure 1 enclosed). Delineation of the surface water setback position critically affects the location and size of the waste handling area design and the viability of this project.

1.0 BACKGROUND

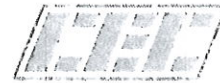
WEG contracted CEC to prepare a due diligence evaluation of the potential to re-develop their property located near New Matamoras, Ohio for permitting and construction of a solid waste transfer station that will stabilize drilling mud, drill cuttings, petroleum impacted soils and other non-hazardous industrial sludges prior to transportation to an appropriately permitted solid waste landfill. A site features map is provided in the enclosed Figure 2.

Civil & Environmental Consultants, Inc.

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		Austin	855/365-2324	Detroit	866/380-2324	Phoenix	877/231-2324
		Charlotte	704/773-6465	Export	800/899-3610	St. Louis	866/250-3679
		Chicago	877/963-6026	Indianapolis	877/746-0749		
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Solid waste transfer station rules in the Ohio Administrative Code (OAC) 3745-27-22 (D) require that the waste handling area cannot be located within 200 feet of any surface waters of the state, as defined in OAC 3745-1-02. OAC 3745-1-02 (S)(31) defines "Surface Water" as "any water on the surface of the earth", however, this rule does not define the lateral limits of the surface water body. To determine the area of the WEG property where the waste handling area could be located, it is required to determine the 200 foot setback from the Ohio River at the WEG property.

CEC researched additional Ohio laws and rules in an effort to determine the definition of the lateral limits of a surface water body. The Ohio Revised Code definition under Title 61, Chapter 6111.01 (H) states that "Waters of the state means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and other bodies or accumulations of water, surface and underground, natural or artificial, regardless of the depth of the strata in which underground water is located, that are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters that do not combine or effect a junction with natural surface or underground waters." Again, this definition does not address the lateral limits of surface waters of the state.

Additional Ohio EPA surface water definitions contained in the Ohio Administrative Code were reviewed including;

- Water Quality Standards definitions in OAC 3745-1-02 (77);
- Section 401 Water Quality Certification definitions in OAC 3745-32-01(N);
- Ohio NPDES Individual Permits definitions in OAC 3745-33-01(PP) and (YY);
- Ohio NPDES General Permits definitions in OAC 3745-38-01(T);
- Permits to Install and Plan Approvals for Water Pollution Control definitions in OAC 3745-42-01(GGG) and (OOO); and
- Voluntary Action Program definitions in OAC 3745-300-01.

CEC did not find any definition of the lateral limits of surface waters of the state defined in any of these rules.

The United States Army Corp of Engineers (USACE) and United States Environmental Protection Agency (USEPA) have federal regulatory authority over wetlands and streams. The USACE has authority to permit work and the placement of structures in navigable waters of the United States under Sections 9 and 10 of the Rivers and Harbors Act of 1899, and to permit the discharge of dredged or fill material in waters of the United States under Section 404 of the Clean Water Act (CWA).