



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

January 18, 2017

City of Cincinnati  
C/O Office of Environmental  
And Sustainability  
801 Plum Street  
Cincinnati, OH 45202

**Re: Compost Cincy  
Director's Final Findings and Orders (DFFO)  
DFFO  
Composting  
Hamilton County  
CM010571**

**Subject:** Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for City of Cincinnati.

If you have any questions, please contact Troy Harter at (614) 644-3037.

Sincerely,

A handwritten signature in black ink that reads "Greg Nichols". The signature is written in a cursive style.

Greg Nichols, Administrative Processing Unit  
Division of Materials & Waste Management

Enclosure

ec: Carl Mussenden, DMWM, CO  
Kelly Jeter, DMWM, CO  
Troy Harter, Legal  
Teri Frinrock, Legal  
Tracy Buchanan, DMWM, SWDO  
Maria Lammers, DMWM, SWDO

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BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

LEGAL OFFICE

In the Matter Of:

City of Cincinnati : Director's  
C/O Office of Environment and Sustainability : Final Findings and Orders  
801 Plum Street :  
Cincinnati, Ohio :

Respondent

**PREAMBLE**

The parties, having engaged in settlement discussions and desiring environmental compliance achieved through collaboration, have reached an agreement pursuant to Ohio Revised Code ("ORC") 3745.01 to resolve said claims through these Director's Final Findings and Orders ("Orders").

**I. JURISDICTION**

These Orders are issued to the City of Cincinnati ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under ORC Sections 3734.13 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Facility as hereinafter defined shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3734 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. The Compost Cincy Class II Composting Facility ("Facility") is located at 5656 Este Avenue, Cincinnati, Ohio, Hamilton County parcel number 238-0004-0050-00 (the "Property"), and is identified on the map in the Facility's Registration dated July 19, 2012.

2. Respondent is the "owner" of the Facility as that term is defined in Ohio Administrative Code ("OAC") Rule 3745-500-02(O)(7).
3. Compost Cincinnati LLC ("Compost Cincy") was the "operator" of the Facility as that term is defined in OAC Rule 3745-500-02(O)(6).
4. The Facility is a "compost facility" as that term is defined under OAC Rule 3745-500-02(C)(1).
5. The Facility operated as a "Class II solid waste composting facility" as that term is defined under OAC Rule 3745-560-02(C)(2).
6. The Respondent is a "person" as that term is defined in ORC Section 3734.01(G) and in OAC Rule 3745-500-02(P)(3).
7. On July 18, 2012, the Director of Ohio EPA authorized the installation of a Class II composting facility at the Property on the site of the former Center Hill Landfill pursuant to OAC Rule 3745-27-13.
8. The City of Cincinnati Health Department is authorized to administer the solid waste program pursuant to OAC Rule 3745-37-08.
9. On July 24, 2012, the City of Cincinnati Health Department issued Compost Cincy a license to operate a Class II Composting Facility at the Property.
10. On August 22, 2012, the Respondent leased a portion of the Property to Compost Cincy to operate a Class II food composting facility.
11. On December 11, 2012, the City of Cincinnati Health Department renewed Compost Cincy's license to operate the Class II Composting Facility for 2013.
12. OAC Rule 3745-560-210(G)(1) states in pertinent part, "The owner or operator shall properly manage any containers used to transport authorized materials to a composting facility according to the following: (1) Compostable containers shall be shredded or otherwise processed to increase the exposed surface area for composting prior to incorporation into the composting process."
13. By letter dated July 29, 2013, the City of Cincinnati Health Department cited Compost Cincy for failing to shred compostable containers and compostable flatware prior to incorporating them into the compost static piles properly, a violation of OAC Rule 3745-560-210(G)(1).
14. OAC Rule 3745-560-210(H)(1) states in pertinent part, "The owner or operator shall operate the composting facility in such a manner that does the following: (1) Controls noise, dust, and odors so as not to cause a nuisance or a health hazard."

15. By letters dated April 10, 2013, July 11, 2013, July 24, 2013, July 24, 2013, July 29, 2013, July 31, 2013, September 4, 2013, September 11, 2013, September 17, 2013, September 24, 2013, October 9, 2013, December 30, 2013, and January 24, 2014, the City of Cincinnati Health Department cited Compost Cincy for failing to operate the Facility in such a manner that controls odors so as not to cause a nuisance or health hazard, in violation of OAC Rule 3745-560-210(H)(1).
16. OAC Rule 3745-560-210(M)(1) states, "Surface water management. The owner or operator shall do the following: (1) Control surface water runoff and runoff, prevent ponding and erosion, and minimize the impact to surface water and ground water."
17. By letters dated February 13, 2013, July 29, 2013, July 31, 2013, September 4, 2013, September 11, 2013, September 17, 2013, September 24, 2013, October 9, 2013, December 30, 2013, January 24, 2014, and March 10, 2014, the City of Cincinnati Health Department cited Compost Cincy for failing to control surface water, in violation of OAC Rule 3745-560-210(M)(1).
18. OAC Rules 3745-560-210(N)(1-4) state, "Leachate management. The owner or operator shall do the following: (1) Take action to minimize the production of leachate. (2) Eliminate ponding of leachate and the conditions that contribute to the discharge of leachate from the composting facility. (3) Collect and contain leachate within the boundary of the composting facility and prevent leachate from discharging to waters of the state. Leachate may be collected and contained for reintroduction into the composting process. (4) If applicable, maintain any structures or mechanisms used for the collection or containment of leachate to prevent blockage, clogging, leakage, or breakage that may impede proper collection or containment of leachate."
19. By letters dated July 11, 2013, July 29, 2013, July 31, 2013, September 4, 2013, September 11, 2013, September 17, 2013, September 24, 2013, October 3, 2013, October 9, 2013, October 24, 2013, December 30, 2013, and March 10, 2014, the City of Cincinnati Health Department cited Compost Cincy for failing to take action to minimize the production of leachate and/or prevent the discharge of leachate to waters of the state, in violation of OAC Rules 3745-560-210(N)(1-4).
20. OAC Rules 3745-560-210(P)(1-2) state, "Food scraps management. An owner or operator who accepts food scraps shall do the following: (1) Incorporate the food scraps into the composting process or combine with bulking agents in a manner to prevent nuisances including but not limited to odor, vectors, and litter no later than the end of operating hours, as specified in the license application, on the date of receipt. (2) Maintain a stockpile of biofilter material to provide at a minimum a six inch cover to piles containing food scraps and apply a biofilter cover consisting of at a minimum six inches on the piles if odors, dust, or vectors are present or upon written request by Ohio EPA or the approved board of health."

21. By letters dated July 29, 2013, July 31, 2013, October 9, 2013, and October 24, 2013, the City of Cincinnati Health Department cited Compost Cincy for failing to incorporate all food scraps into the composting process or combining them with bulk agents in a manner to prevent nuisances including but not limited to odors, vectors and litter. Additionally Compost Cincy failed to use the minimum six (6) inches of biofilter cover, in violation of OAC Rules 3745-560-210(P)(1-2).
22. OAC Rules 3745-560-215(A) and (B) state, "(A) Record retention and availability. The owner or operator shall do the following: (1) Maintain records specified in this rule for a period of at least three years. (2) Have records available for inspection by the approved board of health or Ohio EPA during normal operating hours. (3) Upon request, submit records to Ohio EPA or the approved board of health. (B) Log of operation. The owner or operator shall do the following: (1) Record the facility operations on the log of operation forms as specified in rule 3745-560-04 of the Administrative Code. (2) Complete the log of operation daily at an active composting facility and once per month at an inactive composting facility."
23. By letters dated July 29, 2013 and October 24, 2013, the City of Cincinnati Health Department cited Compost Cincy for not properly recording the activities taking place on the log forms, failing to maintain daily logs and have daily logs available for inspection, in violation of OAC Rules 3745-560-215(A) and (B).
24. OAC Rule 3745-560-235(A)(2)(b) states in pertinent part, "The owner or operator of a composting facility shall perform closure as specified in this rule... if a solid waste facility license held by the owner or operator of the composting facility expires and no license renewal has been applied for in the manner prescribed in Chapter 3745-501 of the Administrative Code."
25. Neither the Respondent, nor Compost Cincy applied for an annual 2014 operating license by the City of Cincinnati Health Department.
26. OAC Rule 3745-560-235(B) states the following:
  - (1) The owner or operator shall continue to comply with rule 3745-560-210 of the Administrative Code until the closure certification statement is submitted and concurrence is received from Ohio EPA.
  - (2) Not later than seven days after closure is required under paragraph (A) of this rule, the owner or operator of a composting facility that allowed public access shall post signs, stating in letters not less than three inches high that the facility is closed. The signs shall be posted in such a manner as to be easily visible at all access points into the facility and must be maintained in

legible condition for not less than one year, or until the facility re-opens as a registered composting facility or is converted to an alternative use. The text of the signs shall be the following: 'This facility is closed for all composting activities and all receipt of waste materials. Depositing solid wastes at this site constitutes open dumping which is a violation of Chapter 3734. of the Revised Code.'

- (3) Not later than thirty days after closure is required under paragraph (A) of this rule, the owner or operator shall remove compost products and solid wastes from the composting facility.
  - (4) Not later than thirty days after closure is required under paragraph (A) of this rule, the owner or operator shall do the following:
    - (a) Remove and properly dispose of leachate remaining on the site in accordance with applicable laws and regulations.
    - (b) Modify, remove, or seal the leachate collection system to prevent discharges from the system to surface waters of the state or ground water unless such discharges are otherwise regulated in accordance with Chapter 6111. of the Revised Code.
    - (c) Clean containers, equipment, machines, and materials placement area surfaces that were in contact with solid wastes at any time during the operation of the facility using procedures that substantially reduce or eliminate any remaining constituents or contaminants."
27. The City of Cincinnati has represented to Ohio EPA that on or about January 1, 2014, the City of Cincinnati posted a sign, stating in letters three inches high that the Facility is closed. The sign is easily visible at the entrance into the Facility and reads: "This facility is closed for all composting activities and all receipt of waste materials. Depositing solid wastes at this site constitutes open dumping which is a violation of Chapter 3734. of the Revised Code."
28. To date, neither Compost Cincy nor the Respondent have performed or completed closure by January 30, 2014, pursuant to OAC Rule 3745-560-235(B).
29. By letters dated February 3, 2014 and March 10, 2014, the City of Cincinnati Health Department cited Compost Cincy for failing to remove all compost products and

- solid wastes from the Facility, and for failing to dispose of leachate and seal the leachate collection system, in violation of OAC Rules 3745-560-235(B)(3) and (4).
30. Compost Cincy vacated the site on February 28, 2014 without removing any waste, without completing closure and without restoring the site.
  31. On March 13, 2014, Respondent met with Ohio EPA at the Facility. The parties discussed strategies to properly close the Facility.
  32. By letter dated May 5, 2014, Respondent submitted a written proposal to Ohio EPA indicating the Respondent's plan to manage the materials at the Facility.
  33. On May 14, 2014, Respondent met with Ohio EPA to discuss the May 5, 2014 proposal and closure of the Facility.
  34. By letter dated June 19, 2014, Respondent submitted a draft Work Plan, prepared by Cardno. Inc., to Ohio EPA.
  35. On October 14, 2014, Agency staff met with the Respondent to discuss the revisions to the proposed Work Plan.
  36. By electronic correspondence dated November 6, 2014, followed by a revised electronic document dated November 12, 2014, Respondent submitted to Ohio EPA a work plan to complete closure of the Facility.
  37. On December 31, 2014, Ohio EPA conducted a technical assistance site visit of the Facility, and documented the site visit in a letter dated January 20, 2015. During this visit, Respondent communicated it had performed grading, installation of storm water controls, and organized the onsite material into windrows as described by the Workplan, and also indicated that these work activities at the Facility were completed on or before December 15, 2014.
  38. Ohio EPA and Respondent held initial negotiations on August 24, 2015. Since that date, technical and legal dialog has been ongoing in an attempt to come to an agreement on methods for managing the material on site at the Facility. The dialog included a conference call on October 27, 2015, and several conversations between attorneys for Ohio EPA and Respondent throughout 2016.

## **V. ORDERS**

Respondent shall achieve compliance with ORC Chapter 3734 and the rules promulgated thereunder according to the following compliance schedule:

1. Upon the effective date of these Orders, Respondent shall comply with the operational requirements pursuant to OAC Rule 3745-560-210 and the closure requirements pursuant to OAC Rule 3745-560-235 for Class II composting facilities unless otherwise expressly identified in these Orders. Operational requirements apply until closure certification is concurred with by Ohio EPA, and they include, but are not limited to, properly managing surface water and leachate and controlling noise, dust, and odors so as not to cause a nuisance.
2. Respondent shall not accept any additional material for composting at the Facility, and is not required to comply with the following requirements: OAC Rules 3745-560-210(A), (B), (C)(1), and (K); and OAC Rules 3745-560-04 and 3745-560-05.
3. Upon the effective date of these Orders, Respondent shall maintain all surface water and leachate control structures, including but not limited to berms, at the Facility until the Respondent completes closure of the Facility or is otherwise authorized to manage the material on site pursuant to these Orders and Ohio Revised Code Chapter 6111.
4. As a prerequisite to possible land application of finished compost product, Respondent shall perform sampling in order to determine compliance with the compost quality standards of OAC Rule 3745-560-230(A) Tables 1-3. The protocol for sampling shall be as follows (see color coded map in Attachment A):
  - a. Respondent shall obtain grab samples of material of equal volumes at each of the locations represented by a color-coded dot in Attachment A. Each dot represents a specific location and depth from which Respondent shall acquire a sample.
    - i. Green = 12 inches deep
    - ii. Yellow = 36 inches deep
    - iii. Red = 60 inches deep

Windrows will be measured to confirm their height prior to taking samples. If a windrow is less than 60" tall, the deepest sample shall be adjusted accordingly to get a representative sample of the deep portion of the windrow. If the windrow is less than 48" tall, both the deep and intermediate samples will be adjusted to give a representative sample at the intermediate and deep depths of the windrow.
  - b. The grab samples collected in accordance with Order 4.a. shall be mixed into composite samples as specified below. Each composite sample will be composed of samples collected from specified windrows as follows and as depicted in Attachment A:
    - i. Composite 1: Windrows 1N, 2N, and 3N



- ii. Composite 2: Windrows 4N, 5N, and 6N
    - iii. Composite 3: Windrows 1S, 2S, and 3S
    - iv. Composite 4: Windrows 4S, 5S, and 6S
    - v. Composite 5: Windrows 7, 8, and E7
    - vi. Composite 6: Windrows E4, E5, and E6
    - vii. Composite 7: Windrows E1, E2, and E3
    - viii. Composite 8: Windrows N3, N4, and N5
    - ix. Composite 9: Windrows N1, N2 and MC
  - c. All analytical results from composite sampling shall be submitted to Ohio EPA for written concurrence prior to land application of material. Composite sampling results shall be submitted to Ohio EPA within forty five (45) days of the effective date of these Orders.
5. In the event that sampling according to Order 4 demonstrates that any composite group does not meet the compost quality standards of OAC Rule 3745-560-230(A) Tables 1-3., Respondent may sample each individual windrow that comprised the non-compliant composite(s). If Respondent elects to sample individual windrows, the protocol for sampling shall be as follows:
  - a. Grab samples shall be collected from the locations and depths indicated in Order 4 for the individual windrows. Grab samples from each windrow shall be mixed on a per windrow basis and not composited with material from any other windrow.
  - b. Samples from individual windrows shall be evaluated to determine each windrow's compliance with the compost quality standards identified in OAC Rule 3745-560-230(A) Tables 1-3.
  - c. All results from individual windrow resampling, if performed, shall be submitted to Ohio EPA for written concurrence prior to any land application of material at the Facility. All sampling results shall be submitted to Ohio EPA within ninety (90) days of the effective date of these orders.
6. In the event that the sampling according to Order 4 or 5 demonstrates that any composite group or windrow does not meet the compost quality standards of OAC 3745-560-230(A) Tables 1-3, Respondent may perform material management activities at the Facility to correct any non-compliance with the quality standards of OAC 3745-560-230(A) Tables 1-3. Composite groups and windrows shall not be intermingled during material management activities. Material management activities shall be completed prior to the final sampling event occurring during the period specified in Order 5.c.

7. In the event that sampling according to Order 4 or 5 demonstrates that an individual windrow does not meet the compost quality standards of OAC 3745-560-230(A) Tables 1-3, Respondent may provide a written demonstration to the Director that the affected windrow is acceptable for land application at the Facility. The Director has the sole unfettered discretion to determine whether the windrow is acceptable for land application. Any written demonstration shall be submitted to Ohio EPA by April 1, 2017.
8. Following Ohio EPA review of composite and individual sampling results, Respondent shall select one of the site management and closure options for the Facility specified in the Options below. Such selection shall be made in writing to Ohio EPA Southwest District Office no later than May 1, 2017.
9. By June 1, 2017, the City shall update and submit to Ohio EPA a revised Storm Water Pollution Prevention Plan for the Facility to detail the sediment and erosion control measures to be used at the site until a vegetative cover is established
10. Following a selection as specified in Order 8, Respondent shall attain compliance in accordance with the selected Option as presented below:

Option A – Removal and Disposal of All Material

- i. Respondent shall remove and legally dispose of all material from the Facility. The material shall be disposed of at a municipal solid waste disposal facility, or at another licensed Class II compost facility, or other facility licensed/permitted to accept the material. Respondent shall also provide Ohio EPA with written receipts upon removal.

Removal of the material shall occur according to the following schedule:

- a. At least seven (7) windrows shall be legally disposed of by June 1, 2017;
  - b. At least seven (7) additional windrows shall be legally disposed of by August 1, 2017;
  - c. At least seven (7) additional windrows shall be legally disposed of by October 1, 2017;
  - d. All remaining material shall be legally disposed of by December 1, 2017;
- ii. By December 15, 2017, or within thirty (30) days after removal of remaining material whichever is sooner, Respondent shall have removed and properly

disposed of leachate remaining at the Facility in accordance with applicable laws and regulations;

- iii. By December 15, 2017, or within thirty (30) days after removal of remaining material whichever is sooner, Respondent shall have modified, removed, or sealed the leachate collection system, other than components directly associated with sediment and soil erosion control measures, to prevent leachate discharges from the system to surface waters of the state or ground water unless such discharges are otherwise regulated in accordance with Chapter 6111. of the Revised Code;
- iv. By December 15, 2017, or within thirty (30) days after removal of remaining material whichever is sooner, Respondent shall have cleaned containers, equipment, machines, and materials placement area surfaces that were in contact with solid wastes at any time during the operation of the Facility using procedures that substantially reduce or eliminate any remaining constituents or contaminants; and
- v. By December 15, 2017, or within thirty (30) days after removal of remaining material whichever is sooner, Respondent shall have ensured that any area of the former Center Hill Landfill that has had the final cover system removed or damaged as a result of composting activities, be re-established in accordance with condition number 12 of the July 18, 2012 Director's authorization.
- vi. By December 31, 2017, or within thirty (30) days after removal of remaining material whichever is sooner, Respondent shall submit in writing to both Ohio EPA-Southwest District Office – Division of Materials and Waste Management and City of Cincinnati Health Department a closure certification statement pursuant to these Orders and OAC Rule 3745-560-235(C) unless otherwise authorized by Ohio EPA.

Option B - Land Application of Finished Compost Product Without Soil Cover

- i. Any composite groups specified in Attachment A and/or individual windrows that did not meet compost quality standards pursuant to OAC Rule 3745-560-230(A) Tables 1-3 and did not receive approval by Ohio EPA to be spread under Order 7 of these Orders shall be legally disposed of at a municipal solid waste disposal facility, or at another licensed Class II compost facility, or other facility licensed/permitted to accept the material prior to spreading finished compost product. Removal of this material shall be completed by July 1, 2017.
- ii. Following Ohio EPA review of sampling results, Respondent may perform off-site distribution of material from windrows that meet compost quality

standards pursuant to OAC Rule 3745-560-230(A) Tables 1-3 for use as compost product in accordance with OAC Rule 3745-560-220(A) and (B). Windrows to be distributed off-site shall not be intermingled with any material on-site that has not met the compost quality standards of OAC Rule 3745-560-230(A) Tables 1-3. Distribution of this material shall be completed by July 1, 2017.

- iii. Respondent shall uniformly spread the material from windrows that meet compost quality standards pursuant to OAC Rule 3745-560-230(A) Tables 1-3, or as otherwise approved pursuant to Order 7 of these Orders, on-site at the Facility such that the slopes are between 2% and 12%. Respondent shall not begin spreading the material before May 1, 2017, and shall complete spreading by September 30, 2017.
- iv. Respondent shall not spread material to frozen or snow covered ground or during precipitation events.
- v. Respondent shall notify Ohio EPA at least five (5) business days before the process of spreading is to begin.
- vi. By November 15, 2017, Respondent shall have seeded the material in order to establish a vegetative cover. The vegetative cover shall be established as follows: (i) With best management practices for erosion control, and (ii) In a manner that healthy grasses or other vegetation shall form a complete and dense vegetative cover within one (1) year of seeding.
- vii. Respondent shall maintain the integrity and effectiveness of the vegetative cover, including making repairs to the vegetative cover as necessary to correct the effects of settling, dead vegetation, subsidence, ponding, erosion, leachate outbreaks, or other events, and preventing run-on and runoff from eroding or otherwise damaging the vegetative cover until such time the Center Hill Landfill is released from post-closure care pursuant to OAC Rule 3745-27-14.
- viii. By December 1, 2017, Respondent shall have removed and properly disposed of leachate remaining at the Facility in accordance with applicable laws and regulations;
- ix. By December 1, 2017, Respondent shall have modified, removed, or sealed the leachate collection system, other than components directly associated with sediment and soil erosion control measures, to prevent discharges from the leachate system to surface waters of the state or ground water unless such discharges are otherwise regulated in accordance with Chapter 6111. of the Revised Code;

- x. By December 1, 2017, Respondent shall have cleaned containers, equipment, machines, and materials placement area surfaces that were in contact with solid wastes at any time during the operation of the Facility using procedures that substantially reduce or eliminate any remaining constituents or contaminants; and
- xi. By December 1, 2017, Respondent shall have ensured that any area of the former Center Hill Landfill that has had the final cover system removed or damaged as a result of composting activities, be re-established in accordance with condition number 12 of the July 18, 2012 Director's authorization.
- xii. By December 30, 2017, Respondent shall submit in writing to both Ohio EPA-Southwest District Office - Materials and Waste Management and City of Cincinnati Health Department a closure certification statement pursuant to these Orders and OAC Rule 3745-560-235(C) unless otherwise authorized by Ohio EPA.

Option C - Land Application of Unfinished Compost With Soil Cover

- i. If Respondent elects to perform on-site land application of material from windrows or composites that have not received Ohio EPA concurrence that such materials are finished compost, then all material land applied at the Facility shall be covered in accordance with vi. - viii. below.
- ii. Following Ohio EPA review of sampling results, Respondent may perform off-site distribution of material from windrows that meet compost quality standards pursuant to OAC Rule 3745-560-230(A) Tables 1-3 for use as compost product in accordance with OAC Rule 3745-560-220(A) and (B). Windrows to be distributed off-site shall not be intermingled with any material on-site that has not met the compost quality standards of OAC Rule 3745-560-230(A) Tables 1-3. Distribution of this material shall be completed by July 1, 2017.
- iii. Respondent shall uniformly spread the material to be land applied on-site at the Facility such that the slopes are between 2% and 12%. Respondent shall not begin spreading the material before May 1, 2017, and shall complete spreading by September 30, 2017.
- iv. Respondent shall not spread material to frozen or snow covered ground or during precipitation events.
- v. Respondent shall notify Ohio EPA at least five (5) business days before the process of spreading is to begin.

- vi. By October 7, 2017, Respondent shall have covered all material that is land applied at the Facility with at least two (2) feet of compacted soil. Soil shall be free of rocks and cobbles larger than two (2) inches.
- vii. By November 15, 2017, Respondent shall have seeded the soil cover in order to establish a vegetative cover. The vegetative cover shall be established as follows: (i) With best management practices for erosion control, and (ii) In a manner that healthy grasses or other vegetation shall form a complete and dense vegetative cover within one (1) year of seeding.
- viii. Respondent shall maintain the integrity and effectiveness of the vegetative cover, including making repairs to the vegetative cover as necessary to correct the effects of settling, dead vegetation, subsidence, ponding, erosion, leachate outbreaks, or other events, and preventing run-on and runoff from eroding or otherwise damaging the vegetative cover until such time the Center Hill Landfill is released from post-closure care pursuant to OAC Rule 3745-27-14.
- ix. By December 1, 2017, Respondent shall have removed and properly disposed of leachate remaining at the Facility in accordance with applicable laws and regulations;
- x. By December 1, 2017, Respondent shall have modified, removed, or sealed the leachate collection system, other than components directly associated with sediment and soil erosion control measures, to prevent discharges from the leachate system to surface waters of the state or ground water unless such discharges are otherwise regulated in accordance with Chapter 6111. of the Revised Code;
- xi. By December 1, 2017, Respondent shall have cleaned containers, equipment, machines, and materials placement area surfaces that were in contact with solid wastes at any time during the operation of the Facility using procedures that substantially reduce or eliminate any remaining constituents or contaminants; and
- xii. By December 1, 2017, Respondent shall have ensured that any area of the former Center Hill Landfill that has had the final cover system removed or damaged as a result of composting activities, be re-established in accordance with condition number 12 of the July 18, 2012 Director's authorization.
- xiii. By December 30, 2017, Respondent shall submit in writing to both Ohio EPA-Southwest District Office - Materials and Waste Management and City of Cincinnati Health Department a closure certification statement pursuant

to these Orders and OAC Rule 3745-560-235(C) unless otherwise authorized by Ohio EPA.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Materials and Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "The City certifies that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by the Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is the principal executive officer, the ranking elected official, or other duly authorized employee.

## **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's Facility.

## **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

## **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA. Respondent may submit in writing to Ohio EPA-Southwest District Office any request for a revision to the implementation schedule of these Orders. Upon such a written request, Ohio EPA-Southwest District Office may authorize in writing changes to the schedule.

#### **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Southwest District Office  
Division of Materials and Waste Management  
401 East Fifth Street  
Dayton, Ohio 45402

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

#### **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

#### **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

#### **XIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

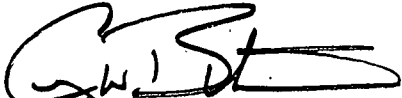


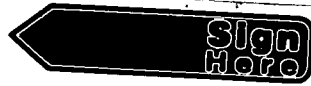
**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

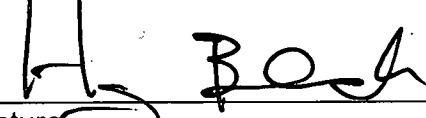
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Craig W. Butler  
Director



**IT IS SO AGREED:**

**City of Cincinnati**

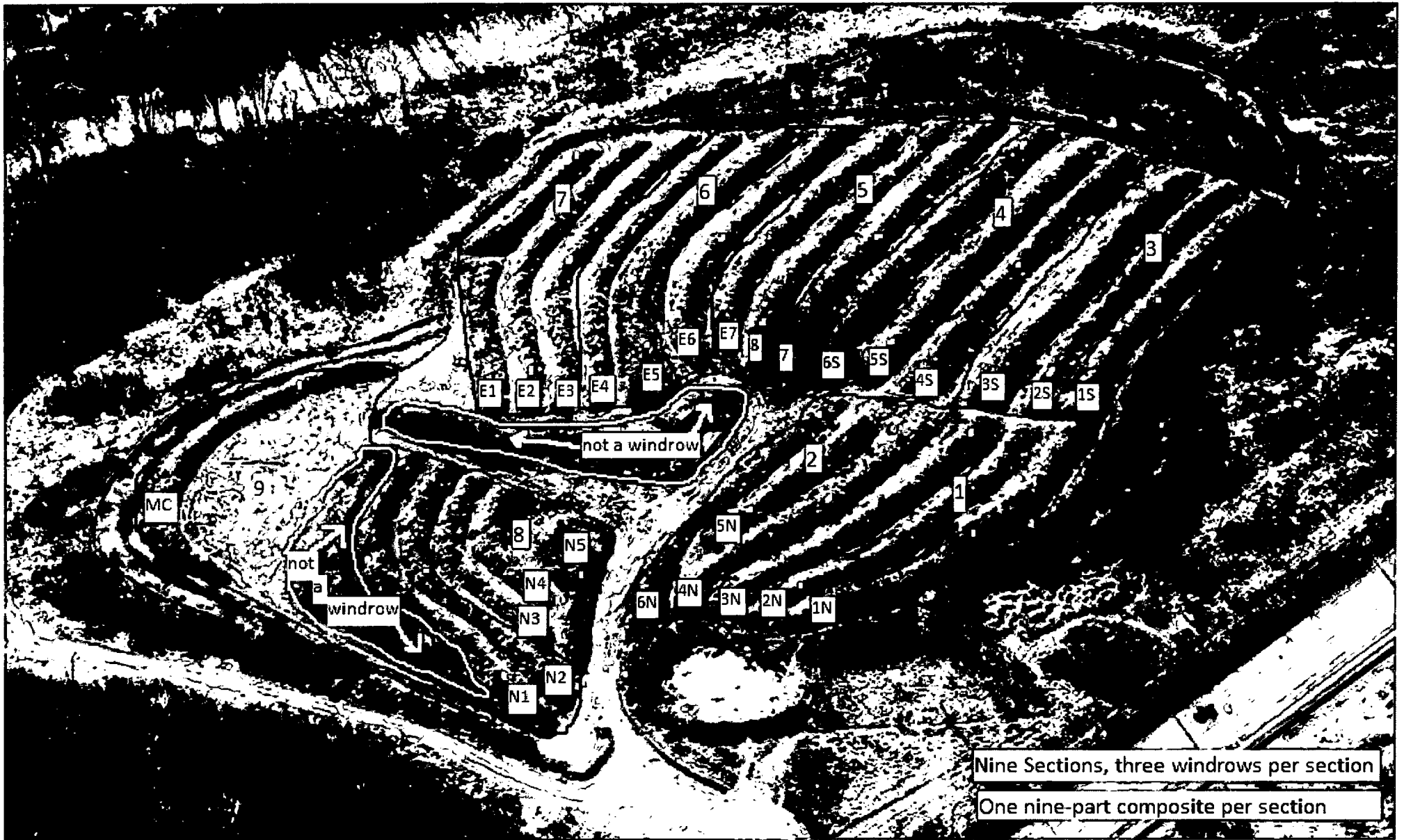
  
\_\_\_\_\_  
Signature

1/16/17  
Date

Harry Black  
Printed or Typed Name

City Manager  
Title

**Attachment A**  
**Sampling Locations**



Nine Sections, three windrows per section

One nine-part composite per section