



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

July 23, 2018

City of Toledo  
One Government Center  
Suite 2200  
Toledo, OH 43604

**Re: Unitcast Landfill  
Director's Final Findings and Orders (DFFO)  
DFFO  
Residual Solid Waste Landfills  
Lucas County  
RSWL019460**

**Subject: Final Findings and Orders**

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Unitcast Landfill.

You are hereby notified that this action of the Director of Ohio EPA (Director) is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. 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 E. Broad St., 4<sup>th</sup> Floor  
Columbus, Ohio 43215

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

Sincerely,

Gregory Nichols  
Division of Materials & Waste Management

ec: Teri Finrock, DMWM, Legal  
Kelly Jeter, DMWM, CO  
Carl Mussenden, DWMW, CO  
Bruce McCoy, DMWM, CO  
John Pasquarette, DWMW, NWDO

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

City of Toledo	:	
One Government Center	:	<u>Director's Final</u>
Suite 2200	:	<u>Findings and Orders</u>
Toledo, Ohio 43604	:	

**PREAMBLE**

It is agreed by the Parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Consent Order") are issued to the City of Toledo ("the City"), as a result of the cooperation and consent of the City of Toledo, pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Sections 3734.13, and 3745.01(C).

**II. PARTIES BOUND**

This Consent Order shall apply to and be binding upon the City and successors in interest liable under Ohio law.

**III. DEFINITIONS**

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

**IV. FINDINGS**

The Director of Ohio EPA makes the following findings:

1. A foundry operation was commenced initially by Midland Ross Corporation (or its predecessors) in or about the year 1943, and located on the east side of Toledo at an address commonly known as 1414 East Broadway, Toledo, Ohio ("Site"). The Site contains approximately twenty six acres.

The City of Toledo and Ohio EPA entered into Director's Final Findings and Orders dated May 2, 2007 ("May 2, 2007 Orders") regarding the Site. The City is authorized to enter in this Consent Order pursuant to Toledo City Council Ordinance # 221-18 (approved: June 5, 2018).

2. Order 4 of the May 2, 2007 Orders required the City to complete remediation of the site within three (3) years of the effective date of the Orders or by May 2, 2010.
3. The City in correspondence dated March 3, 2010, indicated that it would not complete remediation of the Site by May 2, 2010 as required under the May 2, 2007 Orders and requested an extension of time to complete the required work.
4. An extension was granted to the City on March 5, 2010, which required the City to complete remediation of the site by May 2, 2013.
5. The City in correspondence dated April 22, 2013, indicated that due to higher than expected costs of completing closure work activities it needed to evaluate and encumber additional funding sources and was unable to complete the required work by the May 2, 2013 deadline. The City requested an extension until May 31, 2018 to complete the required work.
6. On June 24, 2013, the Director issued Director's Final Findings and Orders granting the City until May 31, 2018 to complete the required work.
7. In an October 10, 2017 letter to Ohio EPA, the City stated that it was unable to meet the May 31, 2018 deadline and requested an extension and modification of the requirements.
8. On February 22, 2018, Ohio EPA met with the City to discuss the extension and possible closure modifications. The City requested an extension until December 1, 2019 to complete the required work.

## **V. ORDERS**

The May 2, 2007 Orders are modified by the August 19, 2010, and the June 24, 2013 Orders and shall state as follows:

1. Order 1.b of Section V, ORDERS is revised to read:  
  
The groundwater monitoring network shall be sampled annually in accordance with the Ground Water Monitoring Plan until at least 2020 in accordance with Ohio Administrative Code ("OAC") Rule 3745-30-10.
2. Order 3 of Section V ORDERS is hereby removed.

3. Order 4 of Section V. ORDERS is revised to read:  
The Site shall be closed in accordance with the following schedule:
  - a. By August 31, 2018, the City shall submit to Ohio EPA Northwest District Office ("NWDO") documentation that sufficient funds have been appropriated to complete closure in accordance with the Revised Closure Plan referenced below.
  - b. By October 31, 2018, a Revised Closure Plan shall be submitted to Ohio EPA NWDO for concurrence. The Revised Closure Plan shall meet the requirements of the existing approved closure plan, but may be altered to include, at a minimum, a final cap design meeting the requirements of OAC Rule 3745-27-09(F) effective July 29, 1976 with a 12-inch vegetative cover layer. The Revised Closure Plan shall include a Revised Closure Cost Estimate.
  - b. By February 15, 2019, the City shall accept bids for construction in accordance with the Revised Closure Plan referenced above.
  - c. By August 1, 2019, the City shall initiate construction at the Site. The City shall notify Ohio EPA NWDO 5 days prior to initiating construction at the Site.
  - d. By November 29, 2019, the City shall complete all construction in accordance with the Revised Closure Plan. The City shall notify Ohio EPA NWDO 5 days prior to completing construction.
  - e. By December 31, 2019, the City shall submit to Ohio EPA NWDO a closure certification report prepared in accordance with OAC Rule 3745-30-09(H) certifying that the Site has been closed in accordance with the Revised Closure Plan.
  - f. Starting no later than December 31, 2019, the City will perform post closure care in accordance with the Class III requirements in OAC Rule 3745-30-10.
4. Post closure monitoring of engineered components of the closed facility shall be inspected annually until at least 2022 in accordance with OAC Rule 3745-30-10.
5. Order 5 of Section V ORDERS is hereby removed.

6. All other provisions of the May 2, 2007 Orders shall remain unchanged and in full force and effect.

#### **VI. OTHER CLAIMS**

Nothing in this Consent Order 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 this Consent Order, for any liability arising from, or related to the Site.

Nothing in the Consent Order shall be construed to authorize any waiver from the requirements of any other applicable state solid waste laws or regulations, except as specified in Paragraph 6 of May 2, 2007 Orders. This Consent Order shall not be interpreted to release the City from responsibility under ORC Chapters 3704., 3734., or 6111.; under the Federal Clean Water Act, the Resource Conservation and Recovery 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.

#### **VII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to this Consent Order shall be undertaken in accordance with the requirements of all applicable local, state, and federal laws and regulations. This Consent Order does not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to the City and/or the site.

#### **VIII. MODIFICATIONS**

This Consent Order 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.

Ohio EPA and the City agree to review the extent and duration of post closure care needed at this facility after the City submits the closure certification report on December 31, 2019.

## **IX. NOTICE**

All documents required to be submitted by the City pursuant to this Consent Order shall be addressed to:

Ohio Environmental Protection Agency  
Northwest District Office  
Division of Materials and Waste Management  
347 North Dunbridge Road  
Bowling Green, Ohio 43402  
Attn: Supervisor, DMWM

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

Any documents or correspondence forwarded to the City by the Ohio EPA associated with the Site shall be addressed to:

Marc Gerdeman, Project Manager  
Environmental Services Division  
City of Toledo  
348 S. Erie Street  
Toledo, Ohio 43604

## **X. RESERVATION OF RIGHTS**

Ohio EPA and the City each reserve all rights, privileges, and causes of action, except as specifically waived in Section XI. of this Consent Order. Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of this Consent Order or from taking other administrative, legal, or equitable action as deemed appropriate and necessary, including seeking penalties against the City for noncompliance with this Consent Order and/or for violations at the Site.

## **XI. WAIVER**

The City hereby waives the right to appeal the issuance, terms, and conditions, service, and implementation of this Consent Order, and the City hereby waives any

and all rights the City may have to seek administrative or judicial review of this Consent Order either in law or equity.

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

**XII. EFFECTIVE DATE**


The effective date of this Consent Order is the date this Consent Order is entered into the Ohio EPA Director's journal.

**XIII. SIGNATORY AUTHORITY**

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

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

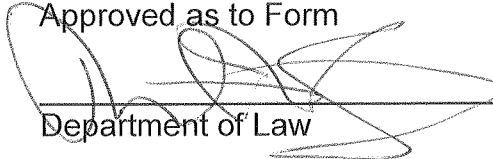
  
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Craig Butler, Director

**IT IS SO AGREED:**

**City of Toledo**  
  
\_\_\_\_\_  
Wade Kapszukiewicz, Mayor

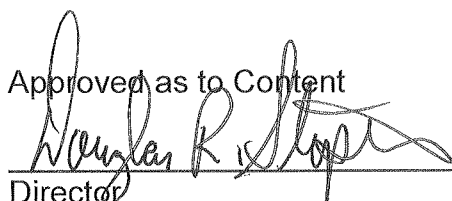
6/22/18  
\_\_\_\_\_  
Date

Approved as to Form

  
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Department of Law

4/2/18  
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Date

Approved as to Content

  
\_\_\_\_\_  
Director  
Department of Public Utilities

9/13/18  
6/20/18  
6/20/18  
\_\_\_\_\_  
Date