



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

September 26, 2018

Summit County  
175 South Main Street  
Akron, OH 44308

**Re: Upper Tuscarawas WWTP No 36  
Director's Final Findings and Orders (DFFO)  
DFFO  
Municipal Solid Waste Landfills  
Summit County  
MSWL018849**

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

Ohio EPA SEP 26 '18  
Entered Directors Journal

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Summit County-Upper Tuscarawas WWTP No 36.

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

Sincerely,

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

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

Enclosure

ec: Kelly Jeter, DMWM, CO  
Carl Mussenden, DMWM, CO  
Bruce McCoy, DMWM, CO  
Lynn Sowers, DMWM, NEDO  
Jennifer Carlin, DMWM, NEDO  
Janine Maney, Legal  
Teri Finrock, DMWM, Legal

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Summit County	:	<u>Director's Final</u>
175 South Main Street	:	<u>Findings and Orders</u>
Akron, Ohio 44308	:	

Respondent

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are hereby issued to Summit County (Respondent) to modify and supersede Director's Final Findings and Orders issued February 24, 2011 to Summit County Executive pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Sections 6111.03, 3734.13 and 3745.01 of the Ohio Revised Code ("ORC").

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and its successors in interest liable under Ohio law. No change in ownership of the property or of WWTP #36 (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 Chapters 3734. and 6111. and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. The Summit County Wastewater Treatment Plant #36, a.k.a. Upper Tuscarawas Wastewater Treatment Plant (hereinafter, "WWTP #36") is located at 1100 Loamshire Drive, Springfield Township, Summit County, Ohio.
2. Respondent Summit County is the "owner" or "property owner" of WWTP #36 as that term is defined in Ohio Administrative Code ("OAC") Rule 3745-27-01(O)(7) and holds title to property on which WWTP #36 is located.

3. Respondent Summit County owns and operates WWTP #36, a "treatment works" as that term is defined in OAC Rule 3745-40-01, serving several communities in Summit County.
4. Respondent is a "person" as that term is defined in ORC Section 3734.01(G) and in OAC Rule 3745-27-01(P)(3).
5. The Temporary Sludge Storage Area at WWTP #36 contains sludge as defined under ORC Section 6111.01(N).
6. On August 25, 1975, Ohio EPA issued the Permit to Install ("PTI"), PTI #02-195, for the Summit County Upper Tuscarawas Wastewater Treatment Facility ("WWTP #36") and Temporary Sludge Storage Area. On May 27, 1980, Ohio EPA approved the Operations and Maintenance Manual ("O & M") submitted by Respondent which included a plan drawing of the "Temporary Sludge Storage Area" at WWTP #36, as depicted in Figure 1-2 of the O & M, labeled Upper Tusc Regional W.W.T.P. Plant Layout.
7. Ohio EPA has never permitted the WWTP #36 Temporary Sludge Storage Area for the disposal of sludge.
8. Ohio EPA has never permitted the WWTP #36 Temporary Sludge Storage Area for the disposal of solid wastes.
9. Pursuant to OAC Rule 3745-40-02(E)(1), the surface disposal of sewage sludge is prohibited.
10. The disposal of sludge in the Temporary Sludge Storage Area is in violation of ORC Chapter 6111 and OAC Chapter 3745-40.
11. On February 24, 2011, the Director issued Director's Final Findings and Orders ("February 2011 Orders") pursuant to ORC Chapters 6111 and 3734 requiring Summit County to characterize the waste in the Temporary Sludge Storage Area at WWTP #36, properly remove and dispose of the entire contents of the Sludge Storage Area at a sanitary landfill licensed to accept the type of waste being disposed, remove the liner system, and to restore, stabilize and grade the site. The Temporary Sludge Storage Area located at WWTP #36 is the sole subject of the February 2011 Orders.
12. On October 2, 2017, Respondent submitted a written request for an extension of time to complete removal and disposal of the sludge and solid waste from the WWTP #36 temporary sludge storage area.
13. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with

these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

14. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the permit to install requirement of ORC Sections 6111.44 and 6111.45 and OAC Chapter 3745-42.

#### V. ORDERS

These Director's Orders are issued to modify and supersede the February 24, 2011 Consensual Orders. Respondent shall achieve compliance with ORC Chapters 3734. and 6111. and the rules promulgated thereunder according to the following compliance schedule:

1. On or before September 30, 2018, Respondent shall have removed and properly disposed at least 3,600 tons of sludge and solid waste from the Temporary Sludge Storage Area at WWTP #36 into a sanitary landfill licensed to accept the type of waste being disposed.
2. Not later than December 31, 2018, Respondent shall remove and properly dispose of at least an additional 3,600 tons of sludge and solid waste from the Temporary Sludge Storage Area at WWTP #36 into a sanitary landfill licensed to accept the type of waste being disposed.
3. Not later than March 31, 2019, Respondent shall remove and properly dispose of at least an additional 3,600 tons of sludge and solid waste from the Temporary Sludge Storage Area at WWTP #36 into a sanitary landfill licensed to accept the type of waste being disposed.
4. Not later than June 30, 2019, Respondent shall remove and properly dispose of at least an additional 3,600 tons of sludge and solid waste from the Temporary Sludge Storage Area at WWTP #36 into a sanitary landfill licensed to accept the type of waste being disposed.
5. Not later than September 30, 2019, Respondent shall remove and properly dispose of at least an additional 3,600 tons of sludge and solid waste from the Temporary Sludge Storage Area at WWTP #36 into a sanitary landfill licensed to accept the type of waste being disposed.

6. Not later than December 31, 2019, Respondent shall remove and properly dispose of at least an additional 3,600 tons of sludge and solid waste from the Temporary Sludge Storage Area at WWTP #36 into a sanitary landfill licensed to accept the type of waste being disposed.
7. Not later than March 31, 2020, Respondent shall complete the removal and proper disposal of the entire contents of the Temporary Sludge Storage Area at WWTP #36 into a sanitary landfill licensed to accept the type of waste being disposed.
8. Respondent shall obtain invoices or receipts or bills indicating the weight or volume of waste disposed pursuant to the above Orders. Not later than thirty days after the required date for removal of sludge and solid waste from the Temporary Sludge Storage Area at WWTP #36 in accordance with Orders Number 1, 2, 3, 4, 5, 6, and 7, respectively, Respondent shall forward such documentation to Ohio EPA's NEDO-DMWM office, at the address found in these Orders under Section X. Notice.
9. Not later than June 30, 2020, Respondent shall complete the removal and proper disposal of the liner system, and restore, stabilize, grade, and seed the affected area. All removal and disposal operations shall be conducted and finalized in a manner which is protective of human health, safety and the environment, and which is consistent with all applicable federal and state laws and regulations.

## 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: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent.

#### **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 or the Facility.

#### **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.

#### **X. NOTICE**

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

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Materials and Waste Management  
2110 East Aurora Road  
Twinsburg, Ohio 44087-1969  
Attn: Unit supervisor, DSIWM

and to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Surface Water  
2110 East Aurora Road  
Twinsburg, Ohio 44087-1969  
Attn: Unit supervisor, DSW

and to:

Summit County Health District  
1100 Graham Road Circle  
Stow, Ohio 44224  
Attn: Health Commissioner

or to such persons and addresses or e-mail 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.

**ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**



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Craig W. Butler  
Director

**AGREED:**

**Summit County**



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Signature



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Date

Deborah S. Matz

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Printed or Typed Name

Law Director

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Title