



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

December 4, 2018

Apex Environmental LLC
P.O. Box 157
Amsterdam, Ohio 43903

**Re: Apex Environmental LLC
Director's Final Findings and Orders (DFFO)
DFFO
Municipal Solid Waste Landfills
Jefferson County
MSWL018772**

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 Apex Environmental LLC.

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

Sincerely,

Jeri Main
Administrative Processing Unit
Division of Materials & Waste Management

Enclosure

cc: Carl Mussenden, DMWM, CO
Bruce McCoy, DMWM, CO
Andrea Smoktonowicz, Legal
Terri Finrock, Legal
Joe Giochochea, DMWM, SEDO
Craig Walkenspaw, DMWM, SEDO
Sara Anderson, DMWM, SEDO
Rich Fox, DMWM, SEDO

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Apex Environmental LLC	:	<u>Director's Final Findings</u>
P.O. Box 157	:	<u>and Orders</u>
Amsterdam, Ohio 43903	:	
	:	
Respondent	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

Ohio EPA DEC 4 '18
Entered Directors Journal

These Director's Final Findings and Orders ("Orders") are issued to Apex Environmental LLC ("Respondent") 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.

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 Respondent or 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. Apex Sanitary Landfill is a "Facility" as that term is defined under ORC Section 3734.01(N) and a "sanitary landfill facility" as defined under Ohio Administrative Code ("OAC") Rule 3745-27-01(S)(4) (the "Facility"), located at 11 County Road 78, Jefferson County, Ohio.
2. Respondent is the current license holder and "permittee" as that term is defined in OAC Rule 3745-27-01(P)(2) for the Facility and is the "owner" or "operator" of the Facility, as those terms are defined in OAC Rule 3745-27-01(O)(7) and (O)(5).

3. Respondent is a "person" as that term is defined in ORC Section 3734.01(G) and OAC Rule 3745-27-01(P)(3).

Operations

4. OAC Rule 3745-27-19(E)(1)(c) provides "[t]he owner or operator shall maintain the integrity of the engineered components of the sanitary landfill facility and repair any damage to or failure of the components."
5. OAC Rule 3745-27-19(E)(11)(a) provides "[t]he owner or operator shall inspect the sanitary landfill facility at least daily for ponding, erosion, and leachate outbreaks. Written results of the inspections, including discussion of any corrective actions taken, the date, and weather conditions, shall be recorded on the daily log forms...."
6. OAC Rule 3745-27-19(G)(1),(2), and (4) provide the owner or operator shall apply intermediate cover at least twelve inches thick to all filled areas of a sanitary landfill where additional waste is not to be deposited for at least thirty days. The owner or operator shall perform measures to protect intermediate cover from erosion.
7. OAC Rule 3745-27-19(K)(1) provides the owner or operator shall repair all outbreaks and contain and properly manage the leachate at the facility, collect and properly dispose of leachate, and take action to minimize, control, or eliminate the conditions which contribute to the production of leachate.
8. OAC Rule 3745-27-19(K)(5)(c) provides the owner or operator shall treat and dispose of collected leachate off-site of the sanitary landfill facility.
9. OAC Rule 3745-27-19(K)(6) provides "[t]he owner or operator shall prepare a contingency plan for the storage and disposal of leachate and place a copy in the operating record."
10. On April 25, 2018, in response to an anonymous complaint made to the United States Environmental Protection Agency, Ohio EPA performed an inspection at the Facility. During an exit conference following the inspection and a conference call with Respondent on May 4, 2018, Ohio EPA summarized the inspection findings. In a notice of violation letter ("NOV") dated May 4, 2018, Ohio EPA cited Respondent with violations referenced in Findings Nos. 4 through 9 of these Orders. For Finding No. 7 of these Orders, Ohio EPA observed a mix of surface water and leachate being actively pumped from Phase 8 into a culvert pipe under the perimeter road, which may have drained to the West Sedimentation pond.

11. OAC Rule 3745-27-19(B)(2) provides "[t]he owner or operator shall conduct all construction and operation at a sanitary landfill facility in strict compliance with the applicable authorizing document, including a permit to install, a plan approval, an operational report, an approved closure plan, an alteration concurred with in writing by Ohio EPA, or any authorizing document listed in paragraph (I) of rule 3745-27-09 of the Administrative Code...."
12. OAC Rules 3745-27-08(C)(3)(c) and 3745-27-19(K)(4) provide that the leachate collection system shall be designed to limit the level of leachate in areas other than sumps to a maximum of one foot and, "[i]f authorized in writing by the director, the owner or operator may temporarily store leachate within the limits of waste placement until the leachate can be treated and disposed as outlined in the leachate contingency plan as required in paragraph (K)(6) of [OAC Rule 3745-27-19]."
13. OAC Rule 3745-27-19(E)(9) provides "[t]he owner or operator shall employ all reasonable measures to collect, properly contain, and dispose of scattered litter, including the use of portable wind screens where necessary and frequent policing of the area."
14. On May 7, 2018, Ohio EPA performed an inspection at the Facility. During the exit conference following the inspection and a conference call with Respondent on May 10, 2018, Ohio EPA summarized the inspection findings. In an NOV dated May 10, 2018, Ohio EPA cited Respondent with new violations referenced in Findings Nos. 12 through 14 of these Orders.
15. Section C8-3 of the Facility's permit states, in relevant part, that "[t]he waste will be dumped, pushed into place with trash compactors or bulldozers, and then compacted using the trash compactors." Section C1-11 of the permit identifies two trash compactors for waste placement. Section C1-12 states, "the number and types of equipment may also vary depending upon the volume of waste receipts being accepted at any point in time."
16. OAC Rule 3745-27-19(E)(3)(b) provides "[t]he owner or operator shall ensure that operable equipment of adequate size and quantity for the operations of the facility are available at all times, or that an appropriate contingency plan is prepared to properly handle and dispose of waste materials in the event of equipment failure."
17. OAC Rule 3745-27-19(E)(7)(c) provides "[t]he owner or operator shall confine unloading of waste materials to the smallest practical area."
18. OAC Rule 3745-27-19(E)(7)(e) provides "[t]he owner or operator shall ensure that all waste admitted to the sanitary landfill facility is deposited at the working face, spread in layers not more than two feet thick, and compacted to the smallest

practical volume.”

19. OAC Rule 3745-27-19(F) and Odor Management Plan (Section 2.1(c)) provide “[d]aily cover shall be applied to all exposed solid waste by the end of the working day to control fire hazards, blowing litter, odors, insects, vectors, and rodents. In no event shall solid waste be exposed for more than twenty-four hours after unloading.”
20. OAC Rule 3745-27-08(D)(17)(a) provides “[a]ny leachate storage tanks located outside of the limits of solid waste placement shall be monitored, as required by the director or his authorized representative” include “[f]or an above ground leachate storage tanks be provided with spill containment no less than one hundred and ten percent of the tank volume.”
21. On May 22 and June 5, 2018, Ohio EPA and Jefferson County General Health District performed inspections at the Facility. During an exit conference following each inspection and meeting with Respondent on June 12, 2018, Ohio EPA summarized the inspection findings. In an NOV dated June 15, 2018, Ohio EPA cited Respondent with new violations referenced in Findings Nos. 19 through 23 of these Orders and stated the violation referenced in Finding No. 6 had been abated.
22. On May 17, 2018 and May 24, 2018, Respondent responded to NOVs issued on May 4 and 10, 2018, respectively.
23. On May 31, 2018, Ohio EPA performed an inspection at the Facility to make observations of Phase 8A-East’s construction. In written correspondence dated June 8, 2018, Ohio EPA summarized the inspection findings and conversations related to construction activities, scrap tire storage, possible geomembrane damage, stormwater management, transitional cover vegetation, overfilled areas noted in the 2017 annual operational report, sedimentation pond maintenance, and assorted engineered components, including maintenance of the gravity leachate line from the gondola unloading tower to the truck loadout sump and the concrete vault located adjacent to the truck loadout area.
24. On June 8, 2018, Ohio EPA performed an inspection at the Facility to make observations of Phase 8A-East’s construction. In written correspondence dated June 15, 2018, Ohio EPA summarized the inspection findings and conversations related to construction activities.
25. On June 19, 2018, Ohio EPA and Jefferson County General Health District performed an inspection at the Facility. During an exit conference following the inspection and a conference call with Respondent on July 2, 2018, Ohio EPA summarized the inspection findings. Ohio EPA cited Respondent with the new

violation referenced in Finding No. 6 of these Orders, determined that the violations in Findings Nos. 8 and 12 have been abated, and rescinded the violation in Finding No. 11 as detailed in an NOV dated July 20, 2018.

26. On June 29, 2018, Ohio EPA performed an inspection at the Facility to make observations of Phase 8A-East's construction. In written correspondence dated July 9, 2018, Ohio EPA summarized the inspection findings and conversations related to construction activities, explosive gas monitoring, stormwater management, and leachate management.
27. On July 20, 2018, Ohio EPA approved an alteration to the Facility's permit that authorizes, *inter alia*, the subdivision of Phase 8 and use of temporary tanks for the storage of leachate with 110% secondary containment.
28. On July 31, 2018, Ohio EPA performed an inspection at the Facility. Ohio EPA observed that Respondent removed all mobile frac tanks located near sump #3 and removed the temporary leachate collection ditch located within the unconstructed cell of Phase 8. During an exit conference following the inspection and a meeting with Respondent on August 1, 2018, Ohio EPA summarized the inspection findings. Ohio EPA determined that the violations in Findings Nos. 4, 5, 6, 16, 17, 18, 19, and 20 have been abated, as detailed in an NOV dated August 10, 2018.
29. On August 21, 2018, Ohio EPA performed an inspection at the Facility. During an exit conference following the inspection and a meeting with Respondent on August 27, 2018, Ohio EPA summarized the inspection findings. Ohio EPA determined that the violation in Finding Nos. 9 and 13 have been abated, as detailed in an NOV dated August 31, 2018.
30. By correspondence dated September 14, 2018, Respondent reported that the gravity leachate line from the gondola unloading tower to the truck loadout sump had been plugged and the concrete vault located adjacent to the truck loadout area had been cleaned out and repaired, in response to Finding No. 23.
31. On October 12, 2018, Respondent submitted a report that assessed all areas where the reported topographic elevations were more than two feet above the permitted vertical limits, as reported in the Facility's 2017 annual operational report. The assessment included the areal extent and the depth of soil to the top of waste within four areas of interest, as determined by five test pits. At each test pit location, Respondent determined that the top of waste grades were at or below the permitted waste grades.

Landfill Gas

32. On April 30, 2018, Respondent notified Ohio EPA that explosive gas at five permanent punch bar locations exceeded the lower explosive limit and triggered contingency monitoring during sampling performed on April 26, 2018 and April 27, 2018.
33. On April 26, 2018, Respondent implemented its explosive gas contingency plan pursuant to the Facility's approved explosive gas monitoring plan.
34. On May 7, 2018, Ohio EPA conducted an explosive gas monitoring field survey at the Facility, in response to the explosive gas levels reported above the lower explosive limit. In written correspondence dated May 21, 2018, Ohio EPA summarized the field survey observations.
35. On May 3, 2018, May 15, 2018, May 22, 2018, May 30, 2018, June 6, 2018, June 15, 2018, June 22, 2018, June 28, 2018, July 3, 2018, July 11, 2018, July 18, 2018, July 24, 2018, July 31, 2018, August 8, 2018, August 14, 2018, August 22, 2018, August 29, 2018, September 5, 2018, September 17, 2018, September 20, 2018, September 25, 2018, October 2, 2018, and October 10, 2018, Respondent submitted weekly gas contingency monitoring results.
36. On August 27, 2018, Respondent communicated to Ohio EPA that on August 9, 2018 it installed and activated a horizontal gas collector.
37. From August 21, 2018 through September 4, 2018, Respondent performed explosive gas sampling and found methane to be below the lower explosive limit at all monitoring locations.
38. From September 14, 2018 through October 9, 2018, Respondent performed explosive gas sampling and found methane above the lower explosive limit at GPB-5 and below the lower explosive limit at all other monitoring locations.
39. On May 25, 2018, June 25, 2018, July 25, 2018, August 24, 2018, and September 25, 2018, Respondent submitted monthly gas contingency reports, as required by OAC Rule 3745-27-12. Respondent investigated the gas migration pathways and determined that a potential source of explosive gas at the monitoring locations is the leachate collection/protective layer where it terminates near the liner system anchor trench. Respondent reported that a horizontal gas collector had been installed inside the limits of Phase 4B and activated on August 9, 2018. Respondent also reported that a horizontal gas collector will be installed inside the limits of Phases 4A and 4C to reduce the potential for gas migration towards GPB-4 and GPB-5.

V. ORDERS

Nothing in these Orders shall be an admission of any fact or law by Respondent. Respondent shall achieve compliance with ORC Chapters 3734, and the rules promulgated thereunder according to the following compliance schedule:

Basic Operations

Leachate Management System

1. Upon the effective date of these Orders, Respondent shall set all leachate sump pumps to run on the designated setting "on-demand (automatic)," as required by the Facility's permit. If Respondent sets the sump pumps to run on the "manual" or "off" settings for more than twenty-four (24) consecutive hours, including when conducting planned and unplanned maintenance, then Respondent shall notify Jefferson County General Health District and Ohio EPA by the end of the business day that the sump pump is disabled. Within seven (7) days of notifying Jefferson County General Health District and Ohio EPA, Respondent shall provide a report that summarizes the specific time period that the sump pump was set to "manual" or "off" settings, a justification for why the sump pump settings was set to "manual" or "off" setting, and the current status of leachate levels at each sump and the status of the leachate storage capacity.
2. In order to limit the level of leachate in areas other than sumps to a maximum of one foot, Respondent shall remove and manage leachate to limit the depth to thirty-six (36) inches at all sumps, unless otherwise authorized by the Director of Ohio EPA.
3. Not later than thirty (30) days after the effective date of these Orders, Respondent shall complete the installation of automatic high-level alarms at each sump in the Facility. The automatic high-level alarms shall be located at no greater than one foot above the top elevation of each sump (36 inches from bottom of sump), as required by OAC Rule 3745-27-08(D)(15)(b). The Facility's operator shall receive immediate notification via email when an alarm has been activated. Respondent shall notify Ohio EPA and Jefferson County General Health District via e-mail within twenty-four (24) hours of when a high-level alarm has been activated (an "Event"). An Event may include more than one activation of a high-level alarm within a twenty-four (24) hour period that has not been resolved. Respondent shall also notify Ohio EPA and Jefferson County General Health District via e-mail within twenty-four (24) hours when leachate levels for an Event have returned to and maintained below 36 inches from bottom of sump, as authorized by the Facility's permit. The e-mail should include the cause of the Event and how the situation was remediated.

4. Not later than sixty (60) days after the effective date of these Orders, Respondent shall maintain at the Facility, at least:
 - a) one leachate sump back-up pump,
 - b) one truck loadout sump back-up pump,
 - c) one leachate tank back-up pump, and
 - d) one leachate tank secondary containment sump back-up pump.

Apex will place an order for another back-up pump within forty-eight (48) hours of in servicing a back-up pump.

Facility Maintenance

5. Not later than November 30, 2018, Respondent shall regrade, seed, and mulch areas of erosion on the Facility's intermediate cover and certified transitional cover to ensure that dense vegetative cover (at least seventy-five percent of vegetative cover when viewed from above) is established no later than April 30, 2019. When viewed from above, if there is less than seventy-five percent vegetative cover, Respondent shall reseed and, if appropriate, amend the soil.
6. Not later than sixty (60) days after the effective date of these Orders, Respondent shall complete a pond clean-out of the West and North Sedimentation Ponds, as required by the Facility's permit and OAC Rule 3745-27-08(D)(3).

Daily Inspections

7. Upon the effective date of these Orders, Respondent shall perform daily inspections of the sumps and related leachate management equipment located within the Facility to ensure it is operating properly. Respondent shall record on the daily inspection checklist (Daily Log Form 3) the following:
 - a) Leachate levels at landfill sumps and at the leachate storage tank, and
 - b) Inspection of the engineered components, including any malfunction, maintenance or needed repair.
8. Upon the effective date of these Orders, Respondent shall perform daily inspections of the transitional and intermediate covers for leachate outbreaks. Upon discovery of a leachate outbreak, Respondent shall:
 - a) Flag and number area

- b) Record on the daily inspection checklist (Daily Log Form 3):
 - i) date and time discovered,
 - ii) GPS coordinate,
 - iii) action taken to abate outbreak, and
 - iv) date and time resolved.
9. Upon the effective date of these Orders, Respondent shall perform daily inspections of the oil/water separator at the maintenance garage. Respondent shall record on the daily-inspection checklist (Daily Log Form 3) findings of the inspection and any corrective action taken.

Reporting

10. Upon the effective date of these Orders and until December 31, 2019, Respondent shall submit to Jefferson County General Health District and Ohio EPA the following reports:
- a) A monthly report detailing the daily leachate disposal volume (as reported on Apex's outbound records) and the total gallons of leachate disposed. The monthly report shall be submitted by the fifteenth day of each month and shall provide all data for the previous calendar month.
 - b) A quarterly report detailing the daily leachate disposal volume (as reported on receipts or invoices from disposal facilities) and the total gallons of leachate disposed. The data for fourth quarter 2018 to be submitted by January 31, 2019, the data for first quarter 2019 to be submitted by April 30, 2019, data for second quarter 2019 to be submitted by July 31, 2019, and the data for third quarter 2019 to be submitted by October 31, 2019.

Beginning January 1, 2020, Respondent shall maintain onsite the information required by this order for a period of not less than three years. Upon request by the health district or Ohio EPA, Respondent shall provide the information required by this order.

11. Upon the effective date of these Orders, for any annual operational report submitted pursuant to OAC Rule 3745-27-19(M) and that identifies areas where the reported topographic elevations are more than two feet above the permitted vertical limits, Respondent shall submit as part of the annual operational report an assessment of the areal extent and depth of soil to the top of waste for each area. If the report identifies any area that has been overfilled, Respondent shall submit to Ohio EPA for written concurrence a detailed schedule for the re-grading and relocation of solid waste to attain compliance. Areas previously

assessed in prior annual operational reports do not require additional evaluation.

Contingency Plan

12. Not later than sixty (60) days after the effective date of these Orders, Respondent shall submit a contingency plan to Jefferson County General Health District and Ohio EPA that establishes the following:

- a) Alters Section C1-11 in the PTI application from two to three waste compactors onsite not later than June 30, 2019. If a waste compactor becomes inoperable for longer than twenty-four (24) hours, Respondent shall notify by email Jefferson County General Health District and Ohio EPA the name of the equipment, action that will be taken, and anticipated time needed to return the equipment to service.
- b) Procedures for the storage and disposal of leachate, in accordance with OAC Rule 3745-27-19(K). The contingency plan shall include procedures for promptly managing unauthorized leachate stored in the landfill and identify additional wastewater treatment facilities and additional third-party haulers which in aggregate can manage the facility's maximum daily leachate generation rate. The contingency plan shall include copies of letters from the third-party entities confirming they are authorized to perform services. The contingency plan shall include procedures for operating the leachate management system in the event of an electrical failure. Respondent shall as soon as practicable implement the contingency plan if leachate levels at any landfill sump exceed 36 inches (3 feet) from bottom of the sump, as authorized by the Facility's permit.

Landfill Operations Assessment

13. Prior to Respondent submitting a certification report for Phase 8A-West construction, Respondent shall submit a report to Jefferson County General Health District and Ohio EPA prepared by a third-party professional engineer that details an investigation and determination of the origin of the leachate outbreak discovered on the outside of the temporary phase separatory berm of Phase 7A, including any corrective action taken and any further action needed to remedy the problem. Respondent's report shall include a determination on whether the geomembrane liner was damaged. If the origin of the leachate outbreak is not determined, Respondent's report shall include a certification by the third-party professional engineer that the investigation was adequately designed and performed to locate the origin of the leachate outbreak.

14. Not later than sixty (60) days after the effective date of these Orders, Respondent shall submit a report to Jefferson County General Health District and Ohio EPA prepared by a third-party professional engineer:

- a) That certifies all storm water controls required by the Facility's permit and identified in Finding No. 23, including perimeter ditches that convey surface water runoff to sedimentation ponds, are designed, constructed and are maintained, or have been repaired, to be in accordance with the PTI and NDPEs permit.
- b) That certifies that the design and operation of the leachate management system is in compliance with the Facility's permit and OAC Chapter 3745-27 and evaluates the factors that contributed to violations identified in Findings Nos. 10, 14, 21, and 26 of these Orders. The report shall also include technical recommendations for leachate management system enhancements including, at a minimum, detailed maintenance schedules and procedures, backup parts and pumps inventory, increased leachate storage tank capacity, and high-level alarms for sumps, that may have prevented and will effectively redress the factors that may have contributed to leachate management violations at the Facility. The report shall also provide a complete explanation of the pressure transducers that malfunctioned in April 2018 and the monthly volumes of leachate hauled off-site for disposal for an 18-month period starting July 2017.
- c) That documents certification of facility and non-facility scales used for the recording of tonnages of solid waste and construction and demolition debris disposed at the Facility, as required by OAC Rule 3745-27-19(I).

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. For purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice-president.

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.

X. NOTICE

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

Ohio Environmental Protection Agency
Southeast District Office
Division of Materials and Waste Management
2195 Front Street
Logan, Ohio 43138
Attn: Supervisor, DMWM

and to:

Jefferson County Health District
500 Market Street, 7th Floor
Steubenville, Ohio 43952
Attn: Environmental Health Director

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 reserves all rights, privileges and causes of action, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein, 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 agree 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

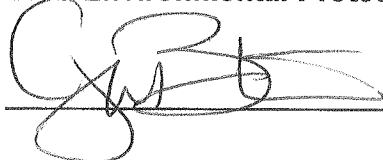
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

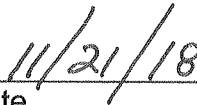
Director

IT IS SO AGREED:

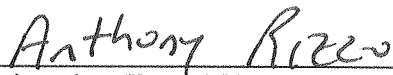
Apex Environmental LLC



Signature



Date



Printed or Typed Name



Title