



**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor  
**Laurie A. Stevenson**, Director

Tim Schetter  
Metroparks Toledo  
5100 West Central Avenue  
Toledo, Ohio 43615-2016

**Re: Metroparks Toledo  
Permit – Short Term  
Approval  
Beneficial Use  
Lucas County  
BENU024380**

**Subject: Glass City Metropark  
Individual Beneficial Use Permit  
Dredged Material Center of Innovation**

Effective Date: September 8, 2021

Expiration Date: September 8, 2026

Dear Mr. Schetter:

The Ohio Environmental Protection Agency (Ohio EPA) has reviewed the individual beneficial use permit application from Metroparks Toledo, received May 21, 2021, requesting to beneficially use Toledo Harbor dredged material obtained from the Dredged Material Center of Innovation (Center of Innovation) for agronomic benefit on the Glass City Metropark Property. The Center of Innovation is located on the western bank of the Maumee River, between Riverside Park and the Maumee River, in Toledo, Ohio, and is operated by the Toledo-Lucas County Port Authority (Toledo Port Authority). The 10-acre site was filled with 70,000 cubic yards of dredged material from Toledo Harbor in 2016 and 2017, and the dredged material has been sufficiently dewatered for transport and land application.

Metroparks Toledo is requesting to beneficially use up to 30,000 cubic yards of the dewatered dredged material from the Center of Innovation for agronomic benefit at the Glass City Metropark Property. To that end, Metroparks Toledo has submitted analytical results demonstrating that the dredged material from the Center of Innovation meets protective residential human health screening levels, is suitable for agricultural use, and contains nutrient levels preferred for Northwest Ohio crops. Analytical results for dredged material from the Center of Innovation are available in the "Final Project Summary Report for the Great Lakes Dredged Material Center for Innovation" dated June 2018 and "Riverside Dredge Center of Innovation Phase II Post-Placement Dredged Material

Sampling Results” dated March 30, 2018.

Pursuant to the authority of the Director of the Environmental Protection Agency (Director) under Ohio Revised Code (ORC) Chapters 6111 and 3734 and Ohio Administrative Code (OAC) Chapter 3745-599, this Permit is issued to Metroparks Toledo subject to compliance with applicable provisions of OAC Chapter 3745-599 and all terms and conditions contained within this Permit. The beneficial use of Dredged Material in accordance with this Permit and in compliance with OAC Chapter 3745-599 and other applicable laws is unlikely to adversely impact the public health or safety or the environment.

This Permit authorizes Metroparks Toledo to beneficially use Dredged Material, as defined in Section A of this Permit, for agronomic benefit on the Glass City Metropark Property. The beneficial use of any dredged material not specifically identified in this Permit must be separately approved by the Director.

This Permit shall expire at midnight on the expiration date listed above. Metroparks Toledo may continue activities authorized by this Permit beyond the date of expiration only as provided in OAC Rule 3745-599-360.

This Permit does not relieve Metroparks Toledo of the duty to comply with all applicable federal, state, and local laws, ordinances, and regulations. Nothing herein shall be construed to release any person, including but not limited to the owner(s) of the land upon which the Dredged Material is placed, from the obligation to comply with all applicable laws governing the placement.

## **Terms and Conditions**

### **A. Definitions**

Unless otherwise stated in this Permit, the terms used in this Permit shall have the same meaning as used in OAC Chapter 3745-599. The following definitions are specific to this Permit:

“Agronomic benefit” means the promotion or enhancement of plant growth and includes but is not limited to increases in soil fertility and moisture retention.

“Dewatered” means the material has no free liquids as determined by *Test Methods for Evaluating Solid Waste, Physical/Chemical Methods (SW-846)*<sup>1</sup> Test Method 9095B- Paint Filter Liquids Test.

“Dredged Material” means only the Toledo Harbor dredged material to which all of the following apply: (1) the dredged material is excavated from cells 1-4 of the Dredged Material Center of Innovation operated by the Toledo Port Authority, as described in

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<sup>1</sup> EPA publication SW-846, “Test Methods for Evaluating Solid Waste: Physical/Chemical Methods (SW-846),” as amended through July 2016.

Attachment 1, and has been sufficiently dewatered for transport and land application; (2) after excavation, the dredged material is stored only at the Dredged Material Center of Innovation prior to beneficial use at the Glass City Metropark Property; and (3) the dredged material is transported directly from the Dredged Material Center of Innovation to the Glass City Metropark Property for beneficial use.

“Glass City Metropark Property” means the portions of the Glass City Riverwalk Area depicted in Attachment 2 that are owned by Metroparks Toledo. The Glass City Metropark is located within an Urban Setting Designation.

“Waters of the state” has the same meaning as in section 6111.01(H) of the Revised Code.

**B. Eligibility and Criteria for Issuance of an Individual Beneficial Use Permit**

1. Only Dredged Material as defined in Section A of this Permit is eligible for beneficial use under this Permit.
2. Ohio EPA has determined that a complete application was submitted and that the beneficial use of eligible Dredged Material for agronomic benefit when conducted in accordance with this Permit and OAC Chapter 3745-599:
  - a. Is unlikely to cause pollution to waters of the state;
  - b. Is unlikely to create a nuisance or adversely affect public health, safety, or the environment;
  - c. Is unlikely to cause air pollution; and
  - d. Complies with ORC Section 3734.02(M).
3. The sampling and analysis data from the permit application demonstrates that the Dredged Material:
  - a. Is not a hazardous waste as defined by ORC Section 3734.01, OAC Rule 3745-50-10(A), and OAC Rule 3745-51-03;
  - b. Contains concentrations of metals below the U.S. EPA residential soil regional screening levels (RSLs) and Ohio Voluntary Action Program (VAP) generic numerical direct-contact soil standards for residential use or are similar to background metal soil concentrations provided in the Ohio EPA Summary Report “Evaluation of Background Metal Soil Concentrations in Lucas County – Toledo Area,” updated August 2015;
  - c. Contains concentrations of carcinogenic polynuclear aromatic

hydrocarbons (PAHs) below the U.S. EPA residential soil RSLs and VAP generic numerical direct-contact soil standards for residential land use, applying U.S. EPA's benzo(a)pyrene toxicity equivalence factors to demonstrate a cumulative concentration below 1 mg/kg; and

- d. Contains concentrations of nutrients preferred for growing crops as described in the Ohio Agronomy Guide (Ohio State University, 2005), Tri-State Fertilizer Recommendations, and in Ohio State University Extension "Soil Sampling to Develop Nutrient Recommendations (AGF 513-12)".
4. For the purposes of this Permit, Dredged Material is a beneficial use byproduct as defined in OAC Rule 3745-599-02(B)(2).

### **C. Operating Conditions**

1. Metroparks Toledo shall conduct all activities authorized by this Permit in strict accordance with this Permit and OAC Chapter 3745-599.
2. Metroparks Toledo may beneficially use eligible Dredged Material for agronomic benefit only on the Glass City Metropark Property as defined in this Permit and only in compliance with the terms and conditions of this Permit.
3. Approval of this Permit does not constitute assurance that the beneficial use of Dredged Material in accordance with this Permit will comply with all Ohio laws and regulations.

### **D. Land Application and Storage Conditions**

1. Toledo Metroparks may store Dredged Material prior to beneficial use under this Permit only at the Center of Innovation.
2. Toledo Metroparks shall use Best Management Practices when applying Dredged Material for agronomic benefit pursuant to this Permit including, at a minimum, all of the following:
  - a. Dredged Material shall not be land applied within 33 feet of surface waters of the state;
  - b. Dredged Material shall not be land applied during precipitation; and
  - c. Measures shall be taken to control fugitive dust and other air emissions that may result from activities authorized through this Permit.

3. Toledo Metropark shall not apply more than 30,000 cubic yards of Dredged Material to the Glass City Metropark Property.

#### **E. Record Keeping and Reporting**

1. Metroparks Toledo shall retain the following information for a minimum of five years after beneficial use of Dredged Material has occurred and shall make the information available to the Director or an authorized representative of Ohio EPA upon request:
  - a. Analytical results for dredged material from the Center of Innovation in the “Final Project Summary Report for the Great Lakes Dredged Material Center for Innovation” dated June 2018;
  - b. “Riverside Dredge Center of Innovation Phase II Post-Placement Dredged Material Sampling Results” dated March 30, 2018; and
  - c. The amount of Dredged Material accepted and the amount of Dredged Material beneficially used annually under this Permit and the location within the Glass City Metropark Property where the Dredged Material was beneficially used.
2. Not later than April first of each year Metroparks Toledo shall submit to Ohio EPA an annual report that includes at a minimum the following information for the previous calendar year:
  - a. The amount of Dredged Material beneficially used under this Permit; and
  - b. Time stamped photos documenting the land application and plant growth on the Glass City Metropark Property where Dredged Material was beneficially used for agronomic benefit.
3. The annual report shall be submitted via the Division of Materials and Waste Management’s virtual dropbox unless otherwise directed by Ohio EPA in writing:

[https://fileshare.epa.ohio.gov/filedrop/co\\_dmwm\\_submittals](https://fileshare.epa.ohio.gov/filedrop/co_dmwm_submittals)

#### **F. General Operating Conditions**

1. Metroparks Toledo shall conduct all activities in compliance with all applicable local, state, and federal laws and regulations pertaining to environmental protection, including but not limited to the control of air pollution, leachate, and storm water run-on and run-off and protection of groundwater and surface water.

2. Metroparks Toledo shall conduct all activities in compliance with all other applicable local, state, and federal laws and regulations not explicitly identified in this Permit.
3. Nothing in this Permit shall be construed as a waiver from the requirements of ORC Chapter 3734 or the regulations promulgated thereunder, except as expressly provided herein. This Permit shall not be interpreted to release the Metroparks Toledo from responsibility under ORC Chapters 3704, 3714, 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.
4. Metroparks Toledo shall not cause pollution or cause any Dredged Material to be placed in a location where it causes pollution to waters of the state, except in accordance with an effective National Pollutant Discharge Elimination System (NPDES) permit. Metroparks Toledo shall report any unauthorized discharge to waters of the state to Ohio EPA (call 1-800-282-9378) within twenty-four (24) hours of discovery.
5. To the extent that any provision in the application for this Permit conflicts with a term or condition in this Permit, this Permit shall control.
6. Metroparks Toledo shall furnish to the Director, or an authorized representative of Ohio EPA, within 30 days of receiving a written request, any information that the Director or an authorized representative of Ohio EPA requests to determine whether cause exists for revoking or determining compliance with this Permit.
7. Metroparks Toledo shall comply with OAC Rules 3745-599-05 (general exclusions), 3745-599-20 (prohibitions), 3745-599-25 (signatures), 3745-599-35 (legitimacy criteria), 3745-599-60 (approved sampling and characterization procedures), 3745-599-310 (application), 3745-599-330 (notice of information), 3745-599-334 (record keeping for generators), 3745-599-335 (record keeping for distributors), 3745-599-340 (initial characterization), 3745-599-345 (compliance demonstration), 3734-599-350 (permit changes), and 3734-599-360 (renewal). If there is a conflict between a requirement in a rule and a condition of this Permit that cannot be reconciled, Metroparks Toledo shall notify the Director in writing of the conflict and shall comply with the permit condition unless directed otherwise by the Director.
8. Pursuant to OAC Rule 3745-599-320(B), this Permit is not transferable.

## **G. Property Access**

Metroparks Toledo shall allow the Director or an authorized representative of Ohio EPA to:

1. Enter upon the site where an activity is located or conducted or where records are retained by Metroparks Toledo under OAC Chapter 3745-599 or the terms and conditions of this Permit;
2. Have access to and copy any records that must be kept under OAC Chapter 3745-599 or the terms and conditions of this Permit; and
3. Collect samples; take photographs; perform measurements, surveys, and other tests; and inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under OAC Chapter 3745-599 or this Permit.

## **H. Revocation**

The Director may revoke this Permit upon determining that any of the Eligibility and Criteria for Issuance of this Permit are no longer satisfied, that the Metroparks Toledo has failed to comply with this Permit or OAC Chapter 3745-599, or as otherwise provided in accordance with OAC Rule 3745-599-370.

The Director may revoke this Permit if the Director determines that a nuisance condition or an adverse impact to public health, safety, or the environment exists. Immediately upon the effective date of the revocation of this Permit, Metroparks Toledo shall cease beneficial use under this Permit. The Director may require Metroparks Toledo to remove the Dredged Material used at the beneficial use site, remediate the site, or to take other action as appropriate to eliminate the nuisance or adverse impact.

## **Right to Appeal**

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to ORC Section 3745.04. 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 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 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 East Broad Street, 4<sup>th</sup> Floor  
Columbus, Ohio 43215

If you have questions, please call (614) 644-2621 and ask to speak with a member of the Division of Materials and Waste Management's Beneficial Use Unit.

Sincerely,

A handwritten signature in black ink that reads "Laurie A. Stevenson". The signature is written in a cursive style with a long horizontal flourish at the end.

Laurie A. Stevenson  
Director

LS/MF





