



State of Ohio Environmental Protection Agency

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Toledo-Lucas County Port Authority
One Maritime Plaza
Toledo, Ohio 43604-1866

**Re: Toledo-Lucas County Port Authority, Lucas County
Amendment to the December 1, 2003, Director's Final Findings and Orders**

Dear Sir or Madam:

On December 1, 2003, Ohio EPA issued Director's Final Findings and Orders (DFF&Os), which authorized Toledo-Lucas County Port Authority (Authority) to utilize 10,000 tons of fluidized bed combustion (FBC) ash from the Bay Shore Power Company's circulating fluidized bed combustion boiler in the construction of a perimeter berm at the Authority's confined disposal facility (CDF) pursuant to Ohio Administrative Code (OAC) Rule 3745-27-05(A)(4), OAC Rule 3745-27-03(B), and Ohio Revised Code (ORC) Section 3734.02(G).

Order Number 4 of the DFF&Os states:

"The amount of FBC Ash disposed in accordance with this authorization shall not exceed 10,000 tons. Neither the FBC Ash, nor the dredging/ash mixture, shall be placed outside the limits of Facility 3, Cell 1 of the Authority's CDF."

In a letter dated May 20, 2004, Soils Plus, LLC, on behalf of the Authority, requested to modify Order Number 4 to use additional quantities of FBC ash at CDF 3. The submittal requested, in part, to utilize 3,000 additional tons of FBC ash from the Bay Shore Power Company to complete construction of a perimeter berm at CDF 3. The construction of the berm was revised in the field by increasing the top width of the berm by 2 to 4 feet to better accommodate construction equipment. This necessitated the use of an additional 3,000 tons of FBC ash to complete the berm's construction.

The Ohio Environmental Protection Agency (Ohio EPA) has completed a review of the May 20, 2004, request, and hereby approves the request by modifying Order Number 4 of the December 1, 2003, DDF&Os as follows:

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director

“The amount of FBC Ash disposed in accordance with this authorization shall not exceed 13,000 tons. Neither the FBC Ash, nor the dredging/ash mixture, shall be placed outside the limits of Facility 3, Cell 1 of the Authority’s CDF.”

Nothing in this letter shall be construed to authorize any waiver from the requirements of any other applicable federal or state laws or regulations. This letter shall not be interpreted to release the Authority 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.

You are hereby notified that this action of the director of Ohio EPA is final and may be appealed to the Environmental Review Appeals Commission (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. It must be filed with the Commission within thirty (30) days after the notice of the director's action. A copy of the appeal must be served on the director within three (3) days of filing with the Commission. An appeal may be filed with the Commission at the following address:

Environmental Review Appeals Commission
309 South Fourth Street
Room 222
Columbus, Ohio 43215

If you have any questions regarding this approval, please contact Habib Kaake of Ohio EPA’s Northwest District Office at (419) 373-3073.

Sincerely,

Christopher Jones
Director

CJ/MM/sw

cc: Habib Kaake, DSIWM-NWDO
Scott Hester, DSIWM-CO

Bob Taft, Governor
Jennette Bradley, Lieutenant Governor
Christopher Jones, Director