

Issuance Date: _____

Effective Date: _____

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Little Scioto River and	:	<u>Director's Final</u>
Sawyer Ludwig Park Project	:	<u>Findings and Orders</u>
Marion, Ohio 43302	:	

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") Section 3734.57(D)(8).

II. 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.

III. FINDINGS

The Director of Ohio EPA ("Director") has determined the following findings:

1. The United States Environmental Protection Agency ("USEPA") and Ohio EPA's Division of Emergency and Remedial Response are overseeing the cleanup of the Little Scioto River and Sawyer Ludwig Park in Marion, Ohio. This cleanup project will generate dredgings and soils stabilized with cement kiln dust ("Remediation Soils"), which USEPA and Ohio EPA will manage as solid waste, as that term is defined in Ohio Administrative Code ("OAC") Rule 3745-27-01(S)(24).
2. USEPA and Ohio EPA are performing this cleanup project to address conditions which are causing or contributing to air or water pollution or soil contamination or which present a substantial threat to public health or safety or the environment.
3. USEPA and Ohio EPA are performing the cleanup project with public funds.

4. Pursuant to ORC Section 3734.57(A), fees are to be levied on the disposal of solid waste. These solid waste disposal fees are to be collected and remitted to the state on each ton of solid waste disposed.
5. Pursuant to ORC Section 3734.57(B), the solid waste management policy committee of a county or joint solid waste management district may levy a tiered disposal fee on wastes disposed at solid waste disposal facilities within the district. These tiered disposal fees are to be collected and remitted to the solid waste management district on each ton of solid waste disposed at the facility.
6. Pursuant to ORC Section 3734.57(D)(8), the Director may issue an order exempting from the fees levied under ORC Section 3734.57 solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the USEPA, the Director, or the director of administrative services on behalf of the Director for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the Director has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. The order shall include a determination that the amount of fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste management plan and any approved amendments to the plan.
7. The Remediation Soils are not currently part of the waste stream subject to disposal fees at solid waste facilities in Ohio. Therefore, solid waste management districts in Ohio do not currently rely on disposal fees associated with the Remediation Soils to implement and finance their approved solid waste management plans or approved amendments thereto. Additionally, acceptance of the Remediation Soils at solid waste disposal facilities in Ohio is unlikely to result in redirection of other waste loads to alternate in-state or out-of-state solid waste disposal facilities.
8. Because solid waste management districts in Ohio are not currently relying on disposal fees from the Remediation Soils to implement and finance their approved solid waste management plans, and because acceptance of the Remediation Soils is unlikely to result in current waste loads being redirected to other in-state or out-of-state disposal facilities, granting exemptions from the requirement to collect and remit disposal fees levied pursuant to ORC Sections 3734.57(A) and 3734.57(B) will not adversely impact the implementation and financing of approved solid waste management district plans in Ohio and any approved amendments to the plans.

IV. ORDERS

1. Pursuant to ORC Section 3734.57(D)(8), the Remediation Soils are hereby exempted from the state solid waste disposal fees levied pursuant to ORC Section 3734.57(A). This exemption shall not apply to any solid wastes other than the Remediation Soils described in Finding Number 1, above.
2. Pursuant to ORC Section 3734.57(D)(8), the Remediation Soils are hereby exempted from the solid waste management district disposal fees levied pursuant to ORC Section 3734.57(B). This exemption shall not apply to any solid wastes other than the Remediation Soils described in Finding Number 1, above.

IT IS SO ORDERED

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency