



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 Director's Final Findings & 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). On June 29, 2004, Ohio EPA amended the December 1, 2003, DFF&Os to allow the Authority to use an additional 3,000 tons of FBC ash to complete construction. Amended Order Number 4 of the DFF&Os states:

"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."

In a letter dated August 19, 2004, Soils Plus, LLC, on behalf of the Authority, requested to modify Order Number 4 again to use additional quantities of FBC ash at CDF 3. The submittal requested to utilize 3,000 additional tons of FBC ash from the Bay Shore Power Company to raise the perimeter dike by approximately 3 to 4 feet at defined locations because the dike was not constructed at a constant elevation.

The Ohio Environmental Protection Agency (Ohio EPA) has completed a review of the August 19, 2004, request, and hereby approves the request by modifying Order Number 4 of the December 1, 2003, DDF&Os, as amended on June 29, 2004, as follows:

"The amount of FBC Ash disposed in accordance with this authorization shall not exceed 16,000 tons. Neither the FBC Ash, nor the dredging/ash mixture, shall be placed outside the limits of Facility 3, Cell 1 of the

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

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, the Toxic Substances Control 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, NWDO-DSIWM  
Scott Hester, CO-DSIWM