



State of Ohio Environmental Protection Agency

**STREET ADDRESS:**

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50 W. Town St., Suite 700  
Columbus, Ohio 43215

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**MAILING ADDRESS:**

P.O. Box 1049  
Columbus, OH 43216-1049

April 22, 2008

City of Middletown  
One Donham Plaza  
Middletown, Ohio 45042

**Re: Director's Final Findings & Orders**

Dear Sir or Madam:

Transmitted herewith are Final Findings & Orders of the Director concerning the matter indicated.

You are hereby notified that this action of the Director of Environmental Protection (Director) is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. 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 Appeals Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate 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 (3) 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 at the following address:

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

Sincerely,

Kimberly Reese  
Systems Management Unit  
Division of Solid & Infectious Waste Management

Enclosure: Director's Final Findings and Orders

cc: Ed Gortner, CO, DSIWM  
Tracy Buchanan, DSIWM, SWDO  
Jeff Hurdley, DSIWM, Legal

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.



OHIO E.P.A.

APR 22 2008

By: [Signature] OHIO ENVIRONMENTAL PROTECTION AGENCY  
Date: 4/22/08 DIRECTOR'S JOURNAL

In the Matter Of:

City of Middletown : Director's Final Findings  
One Donham Plaza : and Orders  
Middletown, Ohio 45042 :

**Respondent**

### I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to the City of Middletown ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 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 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

1. The Respondent is the owner of the Middletown City Landfill located at 3500 Terry Drive, Middletown, Butler County (the "Facility").
2. The Respondent entered into Director's Final Findings and Orders on October 17, 1991 ("1991 F&Os"). The 1991 F&O's required the Respondent to conduct ground water monitoring at the Facility in accordance with OAC Rule 3745-27-10 as effective 1990.
3. In a letter dated September 28, 2005, the Respondent requested a modification of the 1991 F&O's to comply with OAC Rule 3745-27-10 as effective 2003. The Respondent submitted a similar request for modification again on June 18, 2007.

## **V. ORDERS**

Respondent shall achieve compliance with ORC Chapters 3734. and the rules promulgated thereunder according to the following compliance schedule:

1. The 1991 F&O's are hereby superseded.
2. The Respondent shall comply with OAC Rule 3745-27-10, as effective 2003.
3. Within sixty (60) days after the effective date of these Orders, the Respondent shall submit a Corrective Measures Plan ("CMP") to Ohio EPA, pursuant to OAC Rule 3745-27-10(F), as effective 2003.

In the event Ohio EPA identifies that the Respondent's CMP submitted pursuant to this Order fails to comply OAC Rule 3745-27-10(F) or is deficient, Ohio EPA shall notify the Respondent in writing of the Respondent's noncompliance or deficiency. Within thirty (30) days after receiving written notice from Ohio EPA, the Respondent shall correct and resubmit a revised CMP. If the Respondent does not correct the noncompliance or deficiency in a revised CMP, Ohio EPA may provide an alternate timeframe for the Respondent to correct and resubmit a revised CMP.

## **VI. TERMINATION**

The 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 Solid and Infectious 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 the duly authorized employee, official or principal executive officer of the Respondent, pursuant to OAC Rule 3745-31-04(B)(4).

## **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 or the Facility.

## **IX. NOTICE**

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

Ohio Environmental Protection Agency  
Southwest District Office  
Division of Solid and Infectious Waste Management  
401 East Fifth Street  
Dayton, Ohio 45402  
Attn: DSIWM Supervisor

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

## **X. RESERVATION OF RIGHTS**

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3734 or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

**XI. EFFECTIVE DATE**

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

**IT IS SO ORDERED:**

**Ohio Environmental Protection Agency**

A handwritten signature in black ink, appearing to read "C. Korleski", written over a horizontal line.

Chris Korleski  
Director