I. JURISDICTION

These Director’s Final Findings and Orders ("Orders") are issued to DDR Corp. (the “Respondent”), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("R.C.") 6111.03(H).

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in the composition of Respondent 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 R.C. Chapter 6111 and the rules adopted thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. DDR Corp. is the owner of the Stow Community Shopping Center located at 4332 Kent Road, Stow, Ohio 44224.

2. Construction of the parking lot that services the shopping center included using slag as a base material.

3. Slag is producing leachate discharge to the shopping center stormwater management system.

4. Beginning on March 21, 2016, leachate was observed to be discharging from the stormwater retention basin adjacent to the parking lot. The combined stormwater with slag-based leachate is being treated prior to discharge from the retention...
pond. Discharge travels through two ditches prior to discharging to Fish Creek which is a water of the state.

5. The combined stormwater with slag-based leachate contains Total Dissolved Solids (TDS), Total Suspended Solids (TSS), and high pH. The level of TDS and pH being discharged meet water quality standards after treatment.

6. ORC Section 6111.04(A) provides:

   (1) No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.

   (2) Such an action prohibited under division (A)(1) of this section is hereby declared to be a public nuisance.

Divisions (A)(1) and (2) of this section do not apply if the person causing pollution or placing or causing to be placed wastes in a location in which they cause pollution of any waters of the state holds a valid, unexpired permit, or renewal of a permit, governing the causing or placement as provided in sections 6111.01 to 6111.08 of the Revised Code or if the person's application for renewal of such a permit is pending.

7. On April 1, 2016, Respondent was issued coverage under a temporary discharge permit for the discharge in question. In August 2016, Respondent requested an extension under the general permit in order to secure the necessary time to obtain an individual permit which was granted at the time.

8. Respondent submitted an application for an individual NPDES permit including application materials on 9/28/16, 10/6/16, 10/12/16, and 12/13/16. However, additional information is needed to complete the application, and is required to go through a public comment process before a final decision could be made on the permit application.

9. Respondent's coverage under the temporary discharge permit has expired and cannot be renewed. Until such time as an individual permit has been obtained or the discharge is lawfully eliminated, compliance with these Orders is intended to manage the discharge to protect public health and the environment.

10. R.C. 6111.07(A) prohibits any person from violating, or failing to perform, any duty imposed by R.C. 6111.01 to 6111.08, or violating any rule.

11. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from
compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purpose of R.C. Chapter 6111.

12. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the requirements of applicable state and local laws.

V. ORDERS

1. Until such time as these Orders are terminated or revoked, Respondent shall comply with effluent limits and monitoring obligations set forth in Attachment A.

VI. TERMINATION

Respondent may seek termination of these Orders upon obtaining an individual NPDES permit authorizing the discharge or terminates the discharge in a lawful manner.

VII. 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 rules applicable to Respondent.

VIII. NOTICE

Unless otherwise specifically stated herein, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Division of Surface Water
Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087

Attn: Enforcement Supervisor, Division of Surface Water

IX. 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 any of 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 R.C. Chapter 6111 or any other applicable law in the future. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

X. 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 R.C. 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 (30) 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," which the Commission, in its discretion, may reduce 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 (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 with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
77 South High Street, 17th Floor
Columbus, OH 43215

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

Craig W. Butler
Director

Date
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