



Division of Surface Water Response to Comments

Project: Ashtabula Energy, LLC, Receipt of Application, National Pollutant Discharge Elimination System (NPDES) Permit

Ohio EPA Permit #: 3IN00387*AD

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Ohio EPA held a public hearing on March 19, 2015, regarding the draft NPDES permit for a discharge to Lake Erie. This document summarizes the comments and questions received at the public hearing and during the associated comment period, which ended on March 27, 2015.

Ohio EPA reviewed and considered all comments received during the public comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health. Often, public concerns fall outside the scope of that authority. For example, concerns about zoning issues are addressed at the local level. Ohio EPA may respond to those concerns in this document by identifying another government agency with more direct authority over the issue.

In an effort to help you review this document, the questions are grouped by topic and organized in a consistent format.

Comment 1: Citizens are concerned with the effects the discharge would have on Lake Erie's shoreline, harbors and parks.

Response 1: Ohio EPA has regulations and water quality criteria for point source discharges to waters of the state to protect human health and aquatic life use. In addition, the general water quality criteria pursuant to the Ohio Administrative Code (OAC) 3745-1-04 apply to the discharge to ensure that the discharge is free from materials that would produce color, odor or other conditions (such as algae or aquatic weed

growth) in such a degree as to create a nuisance. Ashtabula Energy would be in violation if the discharge creates a nuisance that impacts human health or the environment, including the parks, harbors, and shoreline.

The fact sheet for Ashtabula Energy describes the technical basis and risk management decisions that are considered when developing the NPDES permit. The fact sheet can be viewed online at the following web address:

<http://epa.ohio.gov/Portals/35/permits/3IN00387-FactSheet.pdf>

Comment 2: Citizens are concerned with the transport of diesel fuel.

Response 2: The facility must be designed so all areas that are likely to have an accidental spill are contained to prevent any release to Ohio's waterways. Storm water regulations apply at the facility both during construction and during normal operations. At this time, the Agency has not received details on the facility's preventative spill measures and can request this information when the design plans for the facility are received.

Comment 3: Why can't they just re-use the water?

Response 3: Based on the application, the non-contact cooling water is proposed to be recycled in the cooling process. However, there are limitations to the number of times the water can be re-used in the system before a discharge is necessary.

Comment 4: The cumulative effect of small amounts of chemicals can be very toxic and can cause illness.

Response 4: Ohio EPA is required to perform a wasteload allocation for all toxic and carcinogenic pollutants per OAC rule 3745-2-05. The wasteload allocation considers the cumulative effect by calculating the water body pollutant assimilative capacity. The assimilative capacity is the allowable load that the receiving water body can accept and still maintain water quality standards. Ohio's water quality standards comply with the federal Clean Water Act and are protective of all water body uses, including human health and aquatic life toxicity.

In addition, the incremental risk of each known or suspected carcinogen present in a discharge shall be considered additive in accordance with OAC rule 3745-2-07. These requirements ensure that permitted discharges do not cause toxic or carcinogenic impacts to human health or the environment.

Comment 5: **Are the standards meeting our community's needs? Is 85 degrees Fahrenheit safe for fish? The plant is more than 500 yards from the drinking water intake, is that right? What is the impact of having the plant located so close to a park? What's the impact on existing industries and potential industries wanting to locate in this area? What about adverse aesthetic conditions?**

Response 5: Ohio's water quality standards are established to be protective of drinking water and aquatic life. The proposed discharge is not in the vicinity of a drinking water intake and no impacts to drinking water are anticipated. The temperature water quality standards established in the OAC are safe for aquatic life. The requirements included in the NPDES permit comply with these standards.

Ohio EPA's water quality criteria for Lake Erie complies with the federal Clean Water Act to ensure the protection of all water body uses including aquatic life use; recreational use; agricultural use; drinking water intakes; biological criteria; and any adverse aesthetic conditions or site specific conditions.

The proposed location for this facility and its proximity to the park, residences or other industry are zoning concerns that must be addressed at the local level.

The discharge from Ashtabula Energy is interactive with several other industrial facilities. Ohio EPA evaluated the interaction of other discharges by calculating a wasteload allocation that factors in the pollutant levels of the interactive facilities. Based on this evaluation, Ashtabula Energy's discharge is not anticipated to affect the other industry's discharges, or impact human health and the environment.

The calculations and an explanation of this evaluation calculation can be found in Ashtabula Energy's fact sheet. See Response 1 for the fact sheet link.

Ashtabula Energy's discharge may result in a change from the current water quality conditions in Lake Erie, but cannot violate Ohio's water quality standards that protect human health and the environment.

The discharge from Ashtabula Energy cannot create adverse aesthetic conditions. As mentioned in Response 1, the discharge is required to be free from materials that would produce color, odor or other condition (such as algae or aquatic weed growth) in such a degree as to create a nuisance. If Ashtabula Energy's discharge creates a nuisance that impacts human health or the environment, the facility would be cited with a violation and expected to promptly correct it.

Comment 6: **Is there a point at which we can get the big picture? How do we hear about other hearings and permits? Can we vote if we want this or not?**

Response 6: An air permit was issued for Ashtabula Energy in April 2014. The air permit was drafted and public noticed for 30 days prior to final issuance. The final permit can be viewed at the following web address:

http://wwwapp.epa.ohio.gov/dapc/permits_issued/1137456.pdf

Also in 2014, Ashtabula Energy received coverage under the general construction storm water permit (3GR01921*DG) and the general wetlands permit, Level 1, (Ohio EPA ID No. 144503). The general wetlands permit was issued statewide on April 10, 2012. The general storm water permit was issued statewide on December 15, 2011. Ohio EPA public notices all permitting actions. In addition, Ohio EPA's Public Interest Center maintains interested parties lists for specific sites, including Ashtabula Energy. Anyone wanting to be placed on a list or with questions about this facility may contact Mike Settles in the Public Interest Center at (614) 728-0021 or Michael.Settles@epa.ohio.gov.

Ohio EPA permits may be viewed online at:

<http://epa.ohio.gov/dir/publicrecords.aspx#lt-112012639-edocument-search>

Documents also may be viewed at Ohio EPA's Northeast District Office in Twinsburg by first calling (330) 963-1200.

Ohio EPA permits are not subject to a vote; however, final actions of the Director are appealable to the Environmental Review Appeals Commission (ERAC).

More information on ERAC is found online at:

<http://erac.ohio.gov/>

Comment 7: For oil and grease, the effluent limit in the permit allows for a maximum concentration of 10 mg/L from the combined effluent at outfall 3IN00387001. Why are there no daily, weekly, or monthly limits, and no effluent limits associated with the separate process waste stream?

Response 7: From a regulatory perspective, a maximum limit is more restrictive than a daily, weekly or monthly limit. Ohio EPA has imposed the most stringent limit for oil and grease, which is a maximum of 10 mg/L. This limit is the water quality standard for the Lake Erie basin for aquatic life criteria based on protection against adverse aesthetic effects. At no time can any sample of oil and grease exceed the limit of 10 mg/L. The NPDES permit requires oil and grease to be sampled weekly at the final Outfall 001 and monthly at the process waste stream, Outfall 602.

Comment 8: As there should be little to no oil or grease associated with the plant's cooling water, this limit should apply specifically to the wax and lubricant-producing process stream rather than to the combined stream. Given that this plant strives to bring the very latest in cutting edge technology to our lakefront, it seems quite reasonable to request that this concentration limit be significantly reduced, and applied specifically to the 0.225 MGD process waste stream coming from outfall # 3IN00387602.

Response 8: As mentioned in Response 7, the oil and grease limit is the most stringent water quality based standard. The standard is applied at the final outfall (Outfall 001), not at the internal outfall (Outfall 602). Monitoring will be required at Outfall 602, where a treatment system is proposed to remove oil

and grease to a level that falls within water quality standards. If monitoring at Outfall 602 shows a concern with oil and grease concentrations, then the NPDES permit can be modified to include limits at Outfall 602.

Comment 9: **The Permit requires monitoring of organics and aromatics on a monthly basis. Given that the process involves production of these compounds as byproducts, the permit should require continuous monitoring of these and other priority pollutants, especially of those priority pollutants which are known byproducts of its process.**

Response 9: Ohio EPA determined that monthly monitoring for organic priority pollutants is appropriate at Ashtabula Energy as these pollutants are not expected to exceed water quality standards after treatment. If, at any time, there is a concern with organic pollutants, Ohio EPA can modify the permit to impose more frequent sampling or limits.

Comment 10: **A Permit-to-Install should be required covering not just construction of the sanitary facilities, but of the entire facility. As this proposed plant is to be built upon property containing known capped hazardous wastes, this should be a minimum requirement and should receive the utmost of consideration and care, to ensure the health and safety of the construction crews, of the surrounding community, of the Lake Erie ecosystem and of the population that use this resource for recreation and drinking water. Given the high degree of potential exposure risk that this construction presents to the community and nearby lake, the Permit-to-Install should be presented for public comment and public hearings before it is approved.**

Response 10: The NPDES permit requires submission of a Permit-to-Install (PTI) at least 12 months prior to constructing a disposal system for sewage, industrial, or other wastes, or land application of sludge. During construction, if contaminated material is encountered, that material will need to be characterized and properly addressed.

The Cessation of Regulated Operations (CRO) program still applies to all property formally known as Elkem Metals. Questions concerning CRO may be directed to Mike Settles in Ohio EPA's Public Interest Center at (614) 728-0021 or

Micheal.Settles@epa.ohio.gov. Worker safety is regulated through the Occupational Safety & Health Administration (OSHA).

Comment 11: **Did Ohio EPA model all environmental conditions? I request a cold weather model be applied to your science if one was not, because the settling ponds need regular dredging in order to permit proper settling of solids. In our Ohio winters, Elkem was not able to dredge during the winters and the ponds filled with solids because the water didn't stop flowing when the dredge was not able to operate. Then, the solids built up and the solid rich water topped off into Lake Erie, forcing the Lake to be the first stage settling process during the cold months. Will this happen with the Velocys process? Has that process been tested in an extended cold climate? Will our beaches become black again?**

Response 11: The model conducted for the NPDES permit evaluated the pollutant loading and concentration in the discharge relative to the receiving waters. Temperature standards were developed to protect all designated uses of a water body, including aquatic life. Monitoring requirements for temperature apply to the facility's discharge permit at the final outfall. The discharge must meet water quality standards and not create a nuisance.

As presented in the application, no treatment ponds are proposed for wastewater treatment. The treatment system proposed will consist of a settling unit, such as a mechanical clarifier, and will be subject to the weather as noted in the comment. Detailed information on the treatment system will be presented in the facility's PTI application.

Comment 12: **The entire permit is based on self-regulation and self-reporting. How often is this reported? How often is that reported data reviewed by EPA staff? What is response time if tests are bad?**

Response 12: A key component of the NPDES program is the monitoring data reported by the permittee (self-monitoring data). Ohio EPA has the ability to conduct facility inspections and lab audits as additional checks of the self-monitoring program.

Reports are required to be submitted to Ohio EPA on a monthly basis and are reviewed by the Agency. The frequency of sampling and monitoring each pollutant varies from daily to monthly depending on the potential of the pollutant to exceed water quality standards. Pollutants that exceed permitted limits are flagged as a violation. The facility is required to notify the Agency of a violation. An Ohio EPA inspector will follow up with the facility to ensure violations are promptly addressed. If they are not, Ohio EPA has the ability to pursue enforcement.

End of Response to Comments