



**Environmental  
Protection Agency**

John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Nally, Director

OHIO E.P.A.

AUG -4 2011

**Certified Mail**

ENTERED DIRECTOR'S JOURNAL

**AUG 04 2011**

Cleveland Electric Illuminating Company and American Transmission Systems, Inc.  
Trent Smith, Regional President  
76 South Main Street  
Akron, Ohio 44308

Re: Geauga County / Thompson, Montville and Huntsburg Townships  
Lake County / Madison Township  
Grant of Section 401 Water Quality Certification; Preferred Design Alternative.  
Received November 11, 2009 / Modified July 14, 2011.  
Gauga County 138kV Transmission Line  
ACOE Public Notice No. 2009-01427  
Ohio EPA ID No. 093580

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.

Dear Stakeholders:

*M. Shapiro*

Date: 8/4/2011

I hereby authorize the above referenced project under one or both of the following authorities and it is subject to the following modifications and/or conditions:

Section 401 Water Quality Certification

Pursuant to Section 401 of the Federal Water Pollution Control Act, Public Law 95-217, I hereby certify that the above-referenced project will comply with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act.

Ohio Isolated Wetland Permit

Pursuant to Ohio Revised Code Chapter 6111 and Ohio Administrative Code Chapter 3745-1, and other applicable provisions of state law, I hereby conclude that the above-referenced project will comply with the applicable provisions of Sections 6111.03 and 6111.04 of the Ohio Revised Code.

This authorization is specifically limited to a Section 401 Water Quality Certification and/or Ohio Isolated Wetlands Permit (here after referred to as "permit") with respect to water pollution and does not relieve the applicant of further Certifications or Permits as may be necessary under the law. I have determined that a lowering of water quality in the Grand River watershed (HUC 04110004) as authorized by this permit is necessary. I have made this determination based upon the consideration of all public comments, and including the technical, social, and economic considerations concerning this application and its impact on waters of the state.

## **PART I ON-SITE WATER RESOURCES AND IMPACTS**

### **A. Watershed Setting**

Majority of the project site is currently or was previously agriculture setting. Other areas consist of residential properties.

HUC (12-Digit) and Drainage Name: 0411004-06-02 Mill Creek, 04110004-05-02 Bronson Creek-Grand River, 04110004-03-02 Hoskins Creek, 0411004-03-01 Phelps Creek.

Designations: Mill Creek – Bronson Creek: Warm Water Habitat, Agricultural Water Supply, Industrial Water Supply, Primary Contact Recreation. Hoskins Creek - Phelps: Exceptional Water Habitat, Agricultural Water Supply, Industrial Water Supply, Primary Contact Recreation.

Watershed Impairment Status and Causes of Impairment: Per the Ohio EPA 2010 Integrated Report, the causes of impairment are as follows:

Mill Creek: cause unknown, direct habitat alterations, flow alteration, natural limits, unknown toxicity. Bronson Creek – Grand River: natural conditions (flow or habitat). Hoskins Creek: direct habitat alterations, natural conditions (flow or habitat). Phelps Creek: natural conditions (flow or habitat).

The sources of impairment are as follows:

Mill Creek: hydromodification–development, natural, source unknown, urban runoff/storm sewers (NPS). Bronson Creek – Grand River: natural sources. Hoskins Creek: channelization, natural sources. Phelps Creek: natural sources.

### **B. Project Description**

Install a substation and a 138kV overhead electric transmission line connecting the substation to an existing transmission line. The project will span for 14.7 miles.

### **C. Impacts**

Under the preferred alternative, impacts to waters of the state are as follows:

1. Streams

Within the entire 14.7 mile project length, 65 streams intercept the 60 ft. wide corridor. Two permanent culverts will be installed in streams, one existing culvert in a stream will be modified for construction and maintenance.

Stream ID	Existing Use	Type* E, I, or P	QHEI Score*	Impact Type	Total Length Impacted (LF)
29	Ditch	P	N/A	Culvert # 14	20
30	WWH	P	59	Culvert # 19	20
34	WWH	P	58	Culvert # 45	20
Totals					60

\* As provided by applicant

2. Wetlands

Of the entire 14.7 mile project, 83 wetlands are within the 60 ft. wide corridor. Fill will be placed in one wetland, four poles will be placed in 3 wetlands.

Wetland ID	Isolated or Non-isolated?	Forested or Non-Forested	Category	Total Acreage on Site	Total Acreage Impacted	Percent Avoided
1	N-I	NF	I	0.03	0.03	0
58	N-I	F	II	N/A	N/A	
59	N-I	F	II	N/A	N/A	
66	N-I	F	II	N/A	N/A	
Totals				0.03	0.03	0

- 6.5 acres of Forested Wetland will be converted to Scrub Shrub Wetlands upon completion
- 4 transmission poles will be placed in wetlands. Each pole is equivalent to approximately three feet in diameter.

3. Lakes

Impacts to lakes are not authorized under this permit.

## **PART II TERMS & CONDITIONS**

- A. Terms and conditions outlined in this section apply to project and mitigation construction as described in this permit.
- B. This permit is valid until it is modified, reissued or revoked. All of the NWPs and the state certification to the NWPs are scheduled to be modified, reissued or revoked prior to March 18, 2012. If you commence or are under contract to commence this project before the date that the relevant NWP to which this certification applies is modified or revoked, you will have twelve months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this permit.
- C. The Permittee shall notify Ohio EPA, in writing, and in accordance with *Part IV (NOTIFICATIONS TO OHIO EPA)* of this permit, upon the start and completion of site development construction.
- D. By December 31 of each year following the date of this permit and through the duration of project a "project update report" shall be submitted to Ohio EPA. This report shall document the status of the filling activities at the development site including dates filling was started and completed, or are expected to be started and completed. If filling activities have not been completed, a drawing shall be provided, which shows the locations and acreage/feet of wetlands/streams that have not yet been filled. If filling activities have been completed, then as-built drawings shall be submitted, which show where fill was placed.
- E. A copy of this permit shall remain on-site for the duration of the project and mitigation construction activities.
- F. Unpermitted impacts to surface water resources and/or their buffers occurring as a result of this project must be reported within 24 hours of occurrence to Ohio EPA, Division of Surface Water, Section 401/IWP Manager, (614-644-2001), for further evaluation.
- G. Pesticide application(s) for the control of plants and animals shall be applied in accordance with rule 3745-1-01 of the Ohio Administrative Code, and may require a site specific application permit from Ohio EPA. Such a permit may be obtained by

calling 614-644-2001 and speaking with the Toxicology Specialist. The applicant must follow the requirements / conditions from the Department of Agriculture, and all regulated agencies having jurisdiction, for use and application of herbicides / pesticides.

- H. Blasting shall not be done within or near waters of the state (including wetlands) without prior consultation with the Ohio Department of Natural Resources, Division of Wildlife, to determine what protective measures should be taken to minimize damage to wildlife.
- I. Any authorized representative of the director shall be allowed to inspect the authorized activity at reasonable times to ensure that it is being or has been accomplished in accordance with the terms and conditions of this permit.
- J. In the event that there is a conflict between the permit application, including the mitigation plan, and the conditions within this permit, the condition shall prevail unless Ohio EPA agrees, in writing, that the permit application or other provision prevails.
- K. The applicant shall provide electronic maps of the development area and the mitigation area to Ohio EPA's Environmental Mitigation & Special Permitting section within 30 days of the date of this permit. When sending the electronic files, include the Ohio EPA ID Number and the Army Corps of Engineers Number (if applicable). If possible these electronic maps shall be GIS shape files or Geodatabase files. If this is not possible, the electronic maps shall be in another electronic format readable in GIS (GIF, TIF, etc). The electronic files shall be sent to the following e-mail address: [Jeffrey.Boyles@epa.state.oh.us](mailto:Jeffrey.Boyles@epa.state.oh.us)  
If the files are too large to send by e-mail, a disk containing the electronic files shall be mailed to the following address:

Ohio Environmental Protection Agency  
Division of Surface Water  
Environmental Mitigation & Special Permitting  
Attn: Jeff Boyles  
50 West Town Street, Suite 700  
PO Box 1049  
Columbus, OH 43216-1049

- L. This proposal may require other permits from Ohio EPA. For information concerning application procedures, contact the Ohio EPA District Office as follows: Ohio Environmental Protection Agency

Ohio Environmental Protection Agency  
Northeast District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
330-963-1200

**Additional information regarding environmental permitting assistance at Ohio EPA can be found at [http://www.epa.ohio.gov/dir/permit\\_assistance.aspx](http://www.epa.ohio.gov/dir/permit_assistance.aspx)**

- M. Any stream that may encounter a temporary impact must be photographed and identified prior to disturbance. The temporary impacted streams must be restored to original condition including grades, elevations, and planting native vegetation compatible with the project that is similar to pre-existing conditions.
- N. In order to minimize impacts to stream banks, tree clearing within 25 feet of the bank will be done using hand-clearing methods only, with low growing trees and shrubs to be left undisturbed. All stumps must be left in place. In areas where trees providing a canopy over streams are removed (except culverted streams), native shrubs must be planted to maintain shade to those streams in areas not supporting shrub vegetation from existing seed banks within one year of disturbance.
- O. Construction matting must be placed prior to crossing wetlands. Any wetland that may encounter a temporary impact must be photographed and identified prior to the impact. The temporary impacted wetland must be restored to original condition including grades, elevations, and planting native vegetation similar to pre-existing conditions, with the exception of trees within the 60 ft. corridor.
- P. The applicant shall have an environmental specialist on site at all times during construction and vegetation clearing in or near a sensitive area such as a designated wetland or stream.

Q. Best Management Practices (BMPs)

1. All water resources and their buffers that are within active working areas, and which are to be avoided, shall be clearly indicated on site drawings, demarcated in the field and protected with suitable materials (e.g., silt fencing) prior to site disturbance. The installation shall be done in accordance with generally accepted construction methods and shall be inspected regularly in accordance with the National Pollutant Discharge Elimination System (NPDES) general permit for storm water discharges associated with construction activities (construction general permit) These materials shall remain in place and be maintained within the construction phase.
2. All BMPs for storm water management shall be designed and implemented in accordance with the most current edition of the Ohio Department of Natural Resources Rainwater and Land Development Manual, unless otherwise required by the NPDES general permit for storm water discharges associated with construction activities (construction general permit), if required.

A copy of the Rainwater and Land Development Manual is available at:  
<http://www.dnr.state.oh.us/tabid/9186/default.aspx#Manual>

A copy of the NPDES construction general permit is available at:  
[http://www.epa.ohio.gov/dsw/storm/construction\\_index.aspx#Construction%20General%20Permit](http://www.epa.ohio.gov/dsw/storm/construction_index.aspx#Construction%20General%20Permit)

3. Straw bales shall not be used as a form of erosion/sediment control.
4. Temporary fill shall consist of suitable non-erodible material and shall be stabilized to prevent erosion.
5. Materials used for fill or bank protection shall consist of suitable material free from toxic contaminants in other than trace quantities. Broken asphalt is specifically excluded from use as fill or bank protection.
6. Concrete rubble used for fill or bank stabilization shall be a minimum size/weight of concrete in the range of 100-500 lbs per piece or 12 inches to 18 inches in diameter; free of exposed re-bar; and, free of all debris, soil and fines.

7. Cadmium chromium arsenate (CCA) and creosote treated lumber shall not be used in structures that come into contact with waters of the state.
8. Trees removed from temporary impact areas to facilitate construction outside of the project right-of-way shall be replaced with appropriate tree species native to Ohio.
9. Culverts
  - a. Stream culverts shall be installed and designed at the streambed slope to allow for the natural movement of aquatic organisms and bedload to form a stable bed inside the culvert.
  - b. The culvert base or invert with the substrate shall be installed below the sediment to allow natural channel bottom to develop and to be retained.
  - c. The channel bottom substrate shall be similar to and contiguous with the immediate upstream and downstream reaches of the stream. The culvert shall be designed and sized to accommodate bankfull discharge and match the existing depth of flow to facilitate the passage of aquatic organisms.
  - d. Where culverts are installed for temporary crossings, the bottom elevations of the stream shall be restored as nearly as possible to pre-project conditions.

R. Wildlife Protection

1. In order to protect the Indiana bat during this development, bat habitat trees shall not be cut between April 1<sup>st</sup>. to September 30<sup>th</sup>, unless specifically approved by the U.S. Fish and Wildlife Service.
2. In the event that an eastern massasauga rattlesnake (*Sistrurus catenatus catenatus*) is encountered during construction of the project, work should immediately be stopped and the Ohio Department of Natural Resources, Division of Wildlife should be contacted. Caution should be employed during construction and during the snakes' active season (March 15 - November 15).

3. In order to prevent adverse impacts to the bald eagle (*Haliaeetus leucocephalus*) from disturbances during the egg laying period to nest sites identified within ½ mile of the proposed project site, work within ½ mile of a nest is restricted from January 1 through July 15. The Permittee shall contact the U.S. Fish and Wildlife Service's Columbus, Ohio office at (614) 416-8993 to ensure that the fledgling eagles have left the nest prior to construction start.
4. If native mussels and/or mussel beds, not previously identified, are encountered at any time during construction or dredging activities, work must cease immediately and the Ohio Department of Natural Resources' Division of Wildlife must be contacted for further evaluation.

### **PART III MITIGATION**

#### **A. Description of Required Mitigation**

A total of five properties, in close proximity to the project, will contribute to preserving 13.11 acres of wetland, 21.78 acres of upland and 5,627 linear feet of stream.

1. Substation Property: The 18.16 acre preservation area (13.93 acres of upland preservation and 4.23 acres of wetland preservation) of the Stacy Substation Property includes a total of 2,977 linear feet of perennial streams outside the 60-foot ROW (sum of three streams including Pr-s001, Pr-s002, and Pr-s003).
  - Stream Pr-s001 (496 linear feet) Modified Class II stream.
  - Stream Pr-s002 (1,384 linear feet) is a Modified Class I stream.
  - Stream Pr-s003 (1,097 linear feet) is a Modified Class II stream.
2. Tichel Property South: The 10.65 acre preservation area (4.52 acres of upland preservation and 6.13 acres of wetland preservation) of the Tichel South Property, includes 504 linear feet of a Modified Class II perennial stream (Pr-s043) in the preservation area, but outside the 60-foot ROW.
3. Tichel Property North: The 3.83 acre preservation area (1.85 acres of upland preservation and 1.98 acres of wetland preservation) will be placed outside the 60 foot ROW.

4. South of Burrows Rd.: The 2.25 acre preservation area (1.48 acres of upland preservation and 0.77 acres of wetland preservation) will be placed outside the 60 foot ROW.

5. South East Corner of Hidden Valley Golf Course: OPSB Condition 41(c) requires the Applicants to the extent reasonably possible, acquire 2,500 linear feet of conservation easement for a high quality stream. During field visits along the Preferred Route with the OPSB and OEPA staff, stream Pr-s049 was observed to be the highest quality stream along the Project, and was suggested as a possibility for preservation. Acquiring a conservation easement for stream Pr-s049 depends on landowner willingness to grant the easement. Only two property owners agreed to the conservation easement with approximately 535 linear feet, 924 linear feet of stream Pr-s049. In continuing negotiations, the Applicants have reached an agreement with a third property owner with approximately 687 linear feet of stream Pr-s049. Therefore to date, conservation easements have been obtained for approximately 2,146 linear feet of stream Pr-s049. Although the Applicants will continue their efforts to negotiate for conservation easements through December 1, 2011, it is not expected that additional conservation easements will be granted.

Conservation easements for approximately 2,146 linear feet of stream Pr-s049, along with streams being preserved at the Stacy Substation site and the Tisel South property combined preserve 5,627 linear feet of streams, with a minimum 25 foot buffer on either side of the stream including the upper limits of the stream bank, in close proximity to the Project.

B. Timing of Mitigation Requirements

1. As mitigation for impacts described in Part I.C of this permit the applicant shall implement the mitigation plan dated July 14, 2011, and in accordance with the conditions in this permit.
2. Areas that shall be preserved as a component of compensatory mitigation shall be protected in accordance with Condition D (Protection in Perpetuity) below.

C. Protection in Perpetuity

1. For the above described wetland and stream preservation, including buffers, the Permittee shall submit to Ohio EPA a draft Conservation Easement proposal. Once

the Conservation Easement language is approved by Ohio EPA, the permittee shall submit to Ohio EPA an acceptable, notarized, recorded, and filed Conservation Easement within 60 days after the issuance of this certification for the Permittee's current stream conservation easements and applicable properties currently owned by the Permittee (Stacy Substation, Burrows Road South and Ticel South). Further, within 120 days after issuance of this Certification, Permittee shall provide Ohio EPA with a Conservation Easement for properties currently under a Permittee option to purchase (Ticel north). Conservation Easement holders must meet the requirements of section 5301.68 of the Ohio Revised Code. The Conservation Easement shall include, as attachments, a metes and bounds (survey) description of the protected area, survey map, and an aerial photograph showing the boundaries of, and areas within, the protected parcels. The Conservation Easement shall protect in perpetuity 13.11 acres of wetland, 21.78 acres of upland and 5,627 linear feet of stream as described above. The permittee shall promptly notify and seek input from Ohio EPA on any delays to this implementation schedule which may be beyond the control of the permittee.

2. Preservation signs shall be placed within visual distance along the boundary of the Conservation Easement area. The signs will indicate that the area is a preserved area and that mowing, dumping, or any other activity that would result in a degradation of the wetland, stream and buffer area is prohibited without prior authorization from Ohio EPA. The applicant is responsible to ensure the signs are present and shall promptly replace missing signs upon their discovery or notification.

#### D. Reporting

1. Preservation Reports
  - a. The status of the required Conservation Easement filing.
  - b. Current contact information for all responsible parties including, but not limited to the company & project names, contact names, mailing addresses, e-mail addresses, and phone numbers (cell / work). For the purposes of this condition, responsible parties include, but may not be limited to the Permittee, consultant, Conservation Easement holder, and Conservation Easement owner.

E. Performance Goals – Preserved Wetlands

Preserved wetlands and their buffers shall be subject to a Conservation Easement that specifies the activities that are allowed and/or prohibited within the boundaries of the wetland and associated buffers to be preserved. All provisions must protect the long-term health and existing functions of the wetlands and associated buffers.

**IV. NOTIFICATIONS TO OHIO EPA**

All notifications, correspondence, and reports regarding this permit shall reference the following information:

Permittee Name: Trent Smith, Regional President  
Project Name: Geauga County 138kV Transmission Line  
Ohio EPA ID No.: 093580

and shall be sent to:

Ohio Environmental Protection Agency  
Division of Surface Water, 401/IWP Unit  
Lazarus Government Center  
50 West Town Street  
P.O. Box 1049  
Columbus, Ohio 43216-1049

You are hereby notified that this action of the 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. The appeal must be filed with the Commission within 30 days after notice of the director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Ohio Treasurer Josh Mandel," 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 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, Ohio 43215

Sincerely,



Scott J. Nally  
Director

cc: Keith Sendziak, Department of the Army, Buffalo District, Corps of Engineers  
Peter Swenson, U.S. EPA, Region 5  
Mary Knapp, U.S. Fish & Wildlife Service  
Brian Mitch, ODNR, Division of Real Estate & Land Management  
Dave Snyder, Ohio Historical Preservation Office  
Ed Wilk Ohio EPA, DSW, Section 401/IWP  
Jeff Boyles, Ohio EPA, DSW, Environmental Mitigation and Special Permitting  
Jeff DeShon, Ohio EPA, DSW, EAS  
William Beach, CPG, Environmental Dept., FirstEnergy Corp.

Attachments: Site Location Map (project)  
Site Location Map (mitigation- preservation)  
Response to Comments

Ohio EPA would appreciate your feedback on the permitting process that you have just completed. Please visit the web address listed below and take a short survey to offer input into the Agency's efforts to provide efficient and effective service.

<http://www.surveymonkey.com/s/wqc-iwpfeedbackform>

# OhioEPA

## Division of Surface Water

### Response to Comments

**Project:** Geauga County 138kV Transmission Line Section 401 application  
**Ohio EPA ID #: 093580**

#### Agency Contacts for this Project

Division Contact: Ed Wilk, Division of Surface Water, (330) 963-1172

[Ed.Wilk@epa.ohio.gov](mailto:Ed.Wilk@epa.ohio.gov)

Citizen Contact: Kristopher Weiss, Public Interest Center (614) 644-2160

[Kristopher.Weiss@epa.ohio.gov](mailto:Kristopher.Weiss@epa.ohio.gov)

Ohio EPA held a public hearing June 13, 2011, regarding installation of a substation and a 138kV overhead electric transmission line. The applicants for this project are the Cleveland Electric Illumination Co. and American Transmission Systems, Inc. This document summarizes the comments and questions received at the public hearing and/or during the associated comment period, which ended June 20, 2011.

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.

#### General Questions

**Comment 1:**           **Why can't the transmission line use Route 528 for the project ?**

Response 1:           The Ohio Power Siting Board (OPSB) in case No. 07-0171-EL-BTX authorized and directed that the proposed transmission line be built on the preferred route proposed in that proceeding. The OPSB is tasked with considering numerous factors in the siting of major utility projects, and determined in this case that the preferred route represented the minimal adverse environmental impact. By way of reference, the OPSB case included a comprehensive siting study of almost 900 potential routes that were considered and ultimately led to the determination that the line should be

constructed on the preferred route. The evidence in that case, documents the applicant's multi-criteria decision process (i.e. consideration of socioeconomic, cultural, land-use, ecological and technical issues) that led to the selection of the preferred route. That decision process included the active participation of OPSB staff, Ohio EPA staff, and members of the public, and included testimony, both sworn and unsworn, in public and adjudicatory hearings.

**Comment 2:**           **The use of herbicides will taint surface water (streams and ponds) and ground water (drinking water wells), prevent property owners from operating certified organic vegetable farms, and prevent landowners from persuing a self-sustaining life style. Residents have abstained from using chemicals of any kind. Why it is being thrust upon them?**

Response 2:           Ohio law states, that herbicide use is permitted, provided it is done in accordance with all applicable laws and regulations. Conditions for the application of herbicides are included in the OPSB Certificate issued for the project. These include the development of an Herbicide Use Plan that has been reviewed and approved by the OPSB.

**Comment 3:**           **There is a concern that this project will have a negative effect on the potable water supply. The water table can be disturbed or reduced for the people in the community. If this happens, then their property values will plummet.**

Response 3:           The project will result in a cleared utility right-of-way and wood poles that support an overhead electric line. These features are common in Geauga County and throughout Ohio and do not have the potential to impact potable water supplies. The applicant is unaware of any prior incident of construction of wood pole overhead transmission line causing impacts to any potable water supply.

**Comment 4:**           **The project will have lasting repercussions, such as deforestation, which could “plague the area”. The ecology will have to be altered to accommodate the disruption of wetlands, vegetation and animal life.**

**Response 4:**           The OPSB is tasked with considering numerous factors in the siting of a major utility project, and determined in this case that the preferred route represented the minimal adverse environmental impact. To the extent the project impacts surface waters, Ohio EPA has considered the potential impact of the project on water quality use designations. Based on the proposed impacts for construction of the preferred route, any potential short-term or long-term impacts to water quality are appropriately addressed and mitigated for within the application. The OPSB considered almost 900 potential routes that led to the identification of the preferred and alternate routes including the multi-criteria decision process (i.e. consideration of socioeconomic, cultural, land use, ecological and technical issues) that led to the proposal of the preferred route. Considerations include ongoing coordination with U.S. Fish and Wildlife Services (USFWS), the Ohio Department of Natural Resources (ODNR), Ohio EPA, and the Lake and Geauga counties soil and water conservation districts.

**Comment 5:**           **This project could possibly have negative effects in the entire Grand River Watershed including damaging flood plains, increasing downstream sedimentation caused by bank erosion and channel widening.**

**Response 5:**           Ohio EPA is not aware of any evidence suggesting the construction of the project on the preferred route will have any long-term negative water quality impacts on the Grand River Watershed. The applicant must identify and notify

OEPA if there are any temporary or permanent impacts to water quality from the project.

The siting process and subsequent planning sought to minimize wetland and stream crossing during construction of the project. The project involves installation of wood poles, and only those locations will undergo earth disturbance for construction. The remainder of the right-of-way will be prepared for construction by removing tree and shrub vegetation without root removal or earth disturbance. The highest quality streams were avoided where possible through careful consideration of access routes. The Water Quality Certification identifies conditions required when crossing streams. The riparian buffer of all streams will be preserved (apart from non-compatible tree species which will be cleared using non-mechanized methods). With the exception of filling a 0.03-acre wetland at the substation location, the applicant does not propose changing the contours of existing streams and wetlands during construction or operation of the project. Any temporary areas of disturbance will be restored prior to project completion in accordance with permit requirements.

**Comment 6:**

**The 401 application showed the preferred alternative to include a 14.7- mile corridor with three permanent stream crossings and the conversion of 6.7 acres of forested land into scrub-shrub wetlands. This is in contrast to the application provided to the OPSB requiring 60 stream crossings and impacting 55.1 acres of wetlands. The 401 application mentions that impacts to streams and wetlands would be minimized by the preferred route. Few environmental losses are expected. The OPSB's Staff Report states the preferred route will create significant permanent impacts to wetlands and streams. Significant and permanent impacts include eliminating existing vegetated communities and woodland wildlife populations and impacting the physical, chemical and biological characteristics of the wetlands and streams. The application should be denied if Ohio EPA is unable to explain the information discrepancies.**

**Response 6:**

This is a two-part question that asks: (a) what is the basis for the conflict between the record in the OPSB case No. 07-

0171-EL-BTX proceeding and the record in this Section 401 proceeding; and (b) based on assumed discrepancies the Section 401 Certificate should not be issued.

Regarding the perception of conflict between the record in the OPSB case No. 07-0171-EL-BTX and this Section 401 Certificate, it appears the commenter is comparing the locations described in the OPSB application where the right-of-way of the project crosses wetlands and streams, to those activities described in the Section 401 application that may result in an actual modification to the wetland and stream function. The Section 401 Certification application is limited to those potential impacts associated with Ohio EPA's jurisdiction, namely potential temporary or long term impacts to water quality. These regulatory considerations are not equivalent to the jurisdictional requirements of an application for a Certificate of Environmental Compatibility and Public Need from the OPSB. For instance, the aerial crossing of a scrub-shrub wetland by transmission line conductors within the right-of-way of the project would be described in the OPSB application. As operation of the transmission line is compatible with scrub-shrub wetlands, the same aerial crossing would not be described in the Section 401 application because there would be no temporary or permanent water quality impact or loss of function of the scrub-shrub wetland. As appropriately described in the Section 401 application, the project does require the permanent conversion of 6.7 acres of forested wetland to scrub-shrub wetland, which Ohio EPA considers a permanent loss of function.

Additionally, stream crossings within the corridor will not permanently affect these streams in the same way the three permanent culverted crossings are expected to. The overall impacts from the project have been reviewed extensively with the OPSB, U.S. Army Corps of Engineers, and Ohio EPA. to ensure effects of the project are minimized. Compensatory preservation of wetlands and adjacent upland buffers, as well as riparian corridors proximate to the project limits have been included as part of the OPSB Authorization for the project, as well as the pending 401 Water Quality Certification.

Because there are no material discrepancies between the record in the OPSB case No. 07-0171-EL-BTX and the pending Section 401 Certificate, it is not necessary to

“dismiss” the Section 401 Certificate application. To the extent there are any differences, they are the result of the different regulatory requirements associated with the different legal requirements of the agencies.

**Comment 7:**           **The applicant has admitted that not constructing the project is a viable alternative without impacting the Grand River Watershed. The applicant also failed to provide a viable non-degradation alternative. The Ohio EPA is justified in dismissing the application.**

**Response 7:**           The OPSB in case No. 07-0171-EL-BTX, authorized and directed that the proposed transmission line be built on the preferred route proposed in that proceeding. The OPSB is tasked with considering numerous factors in the siting of major utility projects, and determined in this case that not only was the project needed, but also that the preferred route represented the minimal adverse environmental impact. Ohio EPA has considered the potential impact of the project on water quality use designations. Based on the proposed impacts for construction of the preferred route, any potential short-term or long-term impacts to water quality are appropriately addressed and where necessary, mitigated in the application. Following the determination by the OPSB that the project was needed and that the preferred route represented the minimal adverse environmental impact of the 900 routes considered, other routes are not viable alternatives because not only do they have greater impacts, as determined by the OPSB, but also because the applicants are not authorized to construct and operate, the project on any route other than the preferred route. As such, the applicants have complied with the requirements for this Section 401 proceeding.

**Comment 8:**           **The OPSB case contains numerous alternative solutions that meet the applicant’s needs as well as, if not better than, the project proposed to Ohio EPA. The OPSB alternatives result in little or no watershed degradation and utilize approximately half of the linear transmission line distance.**

Response 8: See Response No. 1.

**Comment 9: The buffers of all 65 streams within the 60- foot route for a distance of 14.5 miles will be removed. The suggested protection buffer distance should be 75 feet. How will this be addressed?**

Response 9: The OPSB Certificate addresses the required riparian buffers be maintained throughout construction:. Stating that the applicants shall limit clearing in all riparian areas and within at least 25 feet from the top of the bank on each side on all streams during construction and operation of the facility; provided, however, that applicants may selectively hand clear taller-growing trees that are incompatible with the operation and maintenance of the transmission line, leaving all low-growing plant species, including other trees and other woody vegetation, undisturbed unless otherwise directed by staff. All stumps shall be left in place.

**Comment 10: The Storm Water Pollution Prevention Plan (SWPPP) states there will be non-mechanized removal of vegetation for a 60-foot wide 14.7-mile long corridor for construction and maintenance. It is not understood how the non-mechanized process can be performed.**

Response 10: The applicants indicated clearing of the transmission line right-of-way will be performed through mowing and cutting woody vegetation above grade. The applicants will leave stumps in place and they will not undertake any grubbing of

the root zone throughout the work area. The phrase "mechanized land clearing" is sometimes misunderstood. "Mechanized land clearing" refers to clearing vegetation with bladed equipment such as a bulldozer, that would potentially remove both above-ground and below-ground portions of the vegetation. Thus, non-mechanized clearing indicates that bladed equipment such as bulldozer would not be used for vegetation clearing, but other equipment such as treeshears and hydro-axes could be used to remove the above-grade portion of the vegetation.

**Comment 11:** **When clearing the 15-mile corridor, deep-wood species are lost, allowing invasive species to overcome the corridor. The applicants propose to reseed with invasive plant species such as crown vetch and non-native grasses. This needs to be changed.**

**Response 11:** By way of information only, the applicants have indicated that the seeding application for stabilization measures shall be in accordance with the requirements of the local soil and water conservation districts under Ohio EPA National Pollutant Discharge Elimination System (NPDES) requirements. Considerations of the potential effects to ecological resources have been an integral component of the siting process and other permit authorizations for the project. This includes ongoing coordination with U.S. FWS, ODNR, Ohio EPA, and the Lake and Geauga county soil and water conservation districts.

**Comment 12:** **Why did the number of plant species double when the residents evaluated the corridor compared to the applicant's plant species list ?**

Response 12: The applicants have indicated that these surveys were completed to identify plant species of concern in accordance with requirements of the OPSB and ODNR and that this information regarding plant species was submitted to the OPSB as sworn testimony.

**Comment 13: Why doesn't OEPA require First Energy to use one of the alternate routes such as Clay Street to avoid crossing wetlands, streams and other environmental issues ?**

Response 13: See Response No.1.

**Comment 14: What will prevent all-terrain vehicle (ATV) users and other off-road vehicles from using this new, man-made, cross-country opening? Such use will lead to extensive and significant adverse aquatic and terrestrial resource impact.**

Response 14: The legal inquiry into the impacts, if any, of ATV and off-road vehicle use were raised and adjudicated in OPSB case No. 07-0171-EL-BTX. By way of information, we note that, in addition to local and state laws regarding trespassing, Condition 40 of the OPSB Certificate requires a plan for mitigating potential off-road recreational use of the utility corridor to the extent practicable.

Specifically if OPSB selects the preferred route the applicants shall present a plan for review and approval that mitigates potential off-road recreational use of the utility corridor to the extent practicable.

**Comment 15: Four alternate non-degradation routes are available. Chesterland substation (east on Route 322 to Route 528). Chardon 5<sup>th</sup> Ave. substation (B&O Railroad right-**

**of-way south to Route 322). Ashtabula Sanborn Ave. substation (Railroad right-of-way south to 322 and west to 528). Ashtabula Rout 11 (south to Route 322 then west on 528). How can this project be considered when other options are available?**

Response 15:

The OPSB determined that the project would serve a specific need for the delivery of reliable electric power and identified the facility with the minimal adverse environmental impact. It was the conclusion of the OPSB that the preferred alternative represented the minimal adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations.

There were numerous opportunities in the proceedings before the OPSB for interested individuals to present evidence on alternatives to the preferred route. Ohio EPA's authority in this proceeding is specifically limited to the potential impacts of the project on surface waters of the State. The Ohio Power Siting Board considered and rejected arguments that there exist any alternatives to the preferred route that have fewer adverse environmental impacts.

Comment 16:

**What engineering firm prepared the storm water management calculations? To what scale were these calculations prepared? (Per acre? Per 10 acres? Per 100 acres?) Is this information available to the public? Are the data available on critical storm calculations, run-off and detention flow summaries, critical storm hydrographs, existing conditions hydrographs and developed condition hydrographs (if any or all of these apply)?**

Response 16:

The applicants have indicated that the SWPPP was completed in accordance with the Ohio EPA NPDES Permit for Storm Water Discharges Associated with Construction Activity Under the NPDES (Ohio EPA Permit No.:

OHC000003) by URS Corp. The SWPPP has also been filed with the OPSB. The construction of the transmission line will not alter the pre-existing surface elevations and does not include the installation of impervious areas aside from a very small area of concrete foundations at the Stacy Substation, and at the Transmission Tap. For this reason, the post-construction runoff coefficients for this project are consistent with pre-construction conditions.

**Comment 17:**        **What will the residue from the herbicides do to the adjacent fields? Will the herbicides run off effect the hay and surface water used for cattle/animals?**

Response 17:        See response No. 2.

**Comment 18:**        **Will the herbicide run off affect the adjacent grain farmer? Could animals and people consume this grain?**

Response 18:        See response No. 2.

**End of Response to Comments**