



Division of Surface Water Response to Comments

**Project: Enon Sand and Gravel, LLC receipt of a National Pollutant Discharge Elimination System permit application
Ohio EPA ID #: (1IJ00141)**

Agency Contacts for this Project

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Ohio EPA held a public hearing and comment period on Feb. 1, 2018, regarding the receipt of a National Pollutant Discharge Elimination System (NPDES) permit application submitted by Enon Sand and Gravel, LLC (Enon Sand & Gravel). This document summarizes the comments and questions received at the public hearing and during the associated comment period, which ended on Feb. 8, 2018.

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*.

Note: This public hearing was for the receipt of an NPDES permit application. A decision regarding further processing of the application has not occurred. If a draft permit is issued, the public will have an opportunity to comment.

Comment 1: Numerous commenters are concerned about the quality of water being proposed for discharge into the receiving stream; pollutants of concern include: suspended solids, dissolved solids, blasting chemicals, oil and grease, fuel, nitrogen, Group B pollutants and turbidity.

Response 1: Ohio EPA has developed and established water quality standards. When developing an NPDES permit (also referred to as a wastewater discharge permit), Ohio EPA establishes concentration limitations for the identified pollutants. Limits are designed to be protective of the receiving stream.

Comment 2: How, where and at what frequency would the concentrations of pollutants be measured?

Response 2: Should a draft wastewater discharge permit be issued, it would specify sample collection locations and establish the frequency in which samples are required to be collected. Ohio EPA uses established guidance to determine the required monitoring frequency for each pollutant, on a pollutant-by-pollutant basis.

Comment 3: **How would Ohio EPA ensure that pollutants do not exceed permit limits?**

Response 3: If a draft wastewater discharge permit is issued, it would specify how the applicant would monitor a discharge and report those results to Ohio EPA.

Wastewater discharge permits routinely include monitoring, reporting and recordkeeping requirements.

After Ohio EPA receives the reports, staff determines if final effluent limit or monitoring frequency violations have occurred. If violations occur, Ohio EPA would follow compliance and enforcement protocols.

Comment 4: **Would additional treatment be required to prevent the discharge of the pollutants identified above?**

Response 4: It has not been determined if additional treatment will be required. If necessary, the company would be required to receive approval from Ohio EPA before treatment equipment is installed.

Comment 5: **How would Ohio EPA ensure that the one sump or settling basin will adequately remove total suspended solids, total dissolved solids and turbidity? Would these pollutants be completely removed prior to the discharge? Where would the basin be located?**

Response 5: This wastewater discharge permit application notes that the applicant intends to use a single settling basin to provide treatment to the wastewater before discharge.

Installation of wastewater treatment equipment is required to receive approval from Ohio EPA. This would be a separate application and would be open to public comment about whether the proposed treatment would provide adequate treatment to comply with discharge limits.

In deciding whether to approve or deny a permit-to-install or plan approval, the director takes several factors into consideration. One factor is whether the system would prevent or interfere with achieving or maintaining applicable water quality standards. Wastewater discharge permits are designed to be protective of water quality and routinely include final effluent discharge limitations designed to prevent water quality standard exceedances. After the initial wastewater discharge permit application submittal, the applicant provided supplemental information which indicates that the proposed single settling basin would be outside of the proposed limestone quarry.

Comment 6: Would the wastewater discharge permit require Enon Sand & Gravel to continuously monitor the discharge?

Response 6: The monitoring requirements have not been set at this time. However, the monitoring requirements would be included in a draft permit, if a draft permit is issued. Please note, Ohio EPA uses established guidance to determine the required monitoring frequency for each pollutant, on a pollutant-by-pollutant basis.

Comment 7: Would the State be monitoring the discharges to ensure no pollution? Would Ohio EPA be performing continuous monitoring of the discharge from Enon Sand & Gravel?

Response 7: Ohio EPA has the authority to monitor any wastewater permitted discharge on an as-needed basis. Monitoring can include the use of continuous monitoring devices if deemed necessary. Wastewater permits include applicable self-monitoring requirements. Data generated from self-monitoring events is required to be reported to Ohio EPA.

Comment 8: The Total Maximum Daily Load report (TMDL) identifies sources or reasons that are contributing to a designation of the watershed being considered impaired due to it not meeting the designated use standards. How would Ohio EPA ensure that the discharge does not contribute to the reasons or causes of impairment identified in the wastewater discharge permit? Would Ohio EPA also consider the long-term impact of the pollutants discharged?

- Response 8:** The development of a wastewater discharge permit includes a review of the most recently approved TMDL for the receiving stream. If the TMDL includes applicable recommended actions or limitations, these would be included in the wastewater discharge permit.
- Comment 9:** **There are potential impacts to the water quality within the projected cone of depression and influence. Including but not limited to the receiving stream, wetlands, seeps, springs, etc.**
- Response 9:** Ohio EPA is aware of the anticipated cone of depression and influence. Ohio EPA is evaluating the likelihood of any potential impacts to all waters of the state.
- Comment 10:** **There are potential impacts from pumping and blasting activities to private and public drinking water wells including, but not limited to: wells being depleted (drying up), additional turbidity, introduction of pollutants (fertilizers, pesticides, etc.)**
- Response 10:** Wastewater discharge permit applications are evaluated for compliance with specific criteria established in Ohio's rules and regulations and can only be accepted if those criteria are met. Potential impacts to private drinking water wells are not part of the criterion that Ohio EPA has authority to consider when reviewing an application. Impacts to drinking water wells from the proposed dewatering activities are within the jurisdiction of Ohio Department of Natural Resources (ODNR), Division of Mineral Resources Management. Questions regarding this issue should be directed to this authority.
- Comment 11:** **The application is incomplete or inaccurate information provided in wastewater discharge application package.**
- Response 11:** Ohio EPA has requested the applicant provide additional supplemental information regarding the proposed discharge. The request asks the applicant to provide updated or revised application forms. The request, supplemental information, and revised application forms are available to the public at <http://edocpub.epa.ohio.gov/publicportal/edochome.aspx>. When performing a search within eDocs for documents related to this NPDES permit application you can use secondary id 11J00141 as a search parameter.

Comment 12: **This project will increase problems with flooding including more frequent and worsening flooding, flood insurance costs, impacts to flood maps, etc.).**

Response 12: Ohio EPA does not have the legal authority to regulate flooding issues. Concerns about potential flooding issues from Enon Sand & Gravel operations should be directed to ODNR, Division of Mineral Resources. Existing flooding issues that arise from the capacity of proposed receiving stream to handle upstream storm water should be directed to the Clark County Engineer.

Comment 13: **This is the wrong land use for this area (zoning).**

Response 13: Ohio EPA does not have the legal authority to take zoning issues into consideration. Zoning requirements are within the jurisdiction of the Clark County. Questions regarding this issue should be directed to the county.

Comment 14: **What are the Water Quality Standards (acceptable concentrations)?**

Response 14: The Ohio EPA Water Quality Standards can be found in Ohio Administrative Code 3745-1:
<http://codes.ohio.gov/oac/3745-1>.

Comment 15: **Does Ohio EPA plan new or revised Mad River watershed studies? If so, how would the results change water quality standards as applied to this permit application?**

Response 15: As noted in the Ohio 2016 Integrated Water Quality Monitoring and Assessment Report, a water quality survey of the Mad River was scheduled for 2018. This project was postponed due to programmatic constraints. Ohio EPA is currently re-evaluating the monitoring schedule.

Comment 16: **Would updated hydrology model simulations be required that reflect accurate flow and other parameters before any future wastewater permit applications are considered?**

Response 16: The wastewater permit application review process requires a reasonable estimate of the anticipated daily discharge volume and it is the responsibility of the applicant to provide the methodology used for the flow estimate. Ohio EPA

requested and received updated flow estimates from Enon Sand & Gravel.

Comment 17: **Have reclamation, remediation and restoration plans been identified and planned or submitted as part of this wastewater discharge permit application by Enon Sand & Gravel? If not, will they be required?**

Response 17: Plans of this nature are not required to be submitted with a wastewater discharge permit application and have not been provided with this permit application.

Comment 18: **Have discharge storage areas or retention ponds been identified and planned or submitted as part of this wastewater discharge permit application by Enon Sand & Gravel? If not, will they be required?**

Response 18: The application includes a single settling basin. The design specifications and location of the proposed basin must be submitted to Ohio EPA in a permit-to-install application. A permit-to-install is required before the basin could be installed.

Comment 19: **Additional flow will potentially cause erosion. Who will pay for the loss of property that results from the increased size of the waterway?**

Response 19: Ohio EPA will evaluate the likelihood for an increase in erosion which may lead to degradation of water quality attributed to the proposed discharge; however, potential property value impact is not a criterion that Ohio EPA has the legal authority to evaluate.

Comment 20: **Can Ohio EPA verify compliance with the wastewater discharge permit? Are enforcement actions (NOV letters, director's orders, etc.) available for public viewing?**

Response 20: Documents such as, but not limited to, notice of violation letters are available at <http://edocpub.epa.ohio.gov/publicportal/edochohome.aspx>.

Such documents are also available for review at Ohio EPA's Southwest District Office, (932) 285-6025. Wastewater discharge permits routinely require sampling and analysis of

the discharge and that data is required to be reported to Ohio EPA on a monthly basis.

Comment 21: **How is the data for Mud Run contained in the water quality portal database used in determining both the parameters to be monitored and the permissible parameter discharge limits in this wastewater discharge permit application?**

Response 21: For pollutants that have associated water quality standards, Ohio EPA would use appropriate background water quality data when calculating wasteload allocations using methodologies found in OAC 3745-2 and established modeling guidance.

Comment 22: **If the permit is issued, Ohio EPA should verify compliance with daily or continual water monitoring and monthly no-notice on site inspections.**

Response 22: There are several factors considered when establishing monitoring frequencies in a wastewater discharge permit. Ohio EPA has a guidance document detailing how to determine the required monitoring frequencies within permits. Data generated from self-monitoring is required to be reported to Ohio EPA.

At a minimum, Ohio EPA performs an inspection before permit renewal. Additional inspections are completed dependent on the situation, priorities and available resources. Ohio EPA may make unannounced visits to any permit holder as part of our efforts to ensure environmental compliance.

Comment 23: **Who would be in charge of how much water is actually dumped into the creek? Would there be an independent observer?**

Response 23: It is a common practice for Ohio EPA to require a facility to monitor and report the volume of flow being discharged. During inspections Ohio EPA verifies that the monitoring data being reported is consistent with the requirements of a facility's wastewater discharge permit.

Comment 24: **The existing quarry at the western corner of Tecumseh and Fairfield roads has been a fill for all types of material for at least the last 20 plus years. What**

measures were taken prior to dumping waste to prevent potentially toxic materials from leaking into the water table? What measures are going to be taken to prevent the movement of the ground water from under the dump site from seeping into the settling pond and then into the tributary of Mud Run?

Response 24: This public hearing was for the receipt of a wastewater discharge permit application. The question posed is outside of the purview of this action of the director; however, Ohio EPA contacted Clark County Combined Health District regarding the site. It is our understanding that the material in question will be removed from the site.

Comment 25: Archaeological records could be lost during development of the quarry.

Response 25: Ohio EPA cannot take archeologic sites into consideration when reviewing permit applications.

Comment 26: Would Ohio EPA coordinate the Farmland Coordination Impact Rating form with the U.S. Department of Agriculture?

Response 26: Ohio EPA does not have the authority to perform this.

Comment 27: There could be acid drainage from mining operation.

Response 27: It is not anticipated that the proposed discharge would be acidic in nature. Ohio EPA routinely requires monitoring of pH within wastewater discharge permits.

Comment 28: Would the tailings from quarrying be collected and moved off-site to another location? Would Ohio EPA require the applicant to install a perimeter of monitoring wells to help prevent contamination of the aquifer and surrounding wells?

Response 28: The question posed regarding tailings is outside of the purview of this action of the director.

Comment 29: Concerns were expressed regarding decreased property values.

- Response 29:** Ohio EPA does not have the authority to consider potential impact to property values when reviewing a wastewater discharge permit application.
- Comment 30:** **There would be excessive noise from blasting and processing of limestone.**
- Response 30:** Noise is not a condition that Ohio EPA has the legal authority to evaluate. This is a local zoning matter.
- Comment 31:** **Concerns were expressed regarding dust.**
- Response 31:** Issues regarding air emissions, including dirt, dust and odor, are not within the purview of this action of the director. These issues are within the jurisdiction of Regional Air Pollution Control Agency (RAPCA). While this is not a subject that can be considered as part of this application, Ohio EPA and its partner RAPCA work together to ensure that Ohio's air pollution laws are followed. Questions regarding this issue should be directed to RAPCA: <https://www.rapca.org/>.
- Comment 32:** **Local roads could have problems as a result of truck traffic.**
- Response 32:** Truck traffic is not a condition that Ohio EPA has the legal authority to evaluate.
- Comment 33:** **Can Ohio EPA protect the surrounding area from fly rock and other debris?**
- Response 33:** No, Ohio EPA does not have authority to address concerns of this nature.
- Comment 34:** **What Ohio EPA regulations would reduce or eliminate the vibrations from blasting that cause sinkholes or change the drainage and water quality of underground aquifers? What safeguards against excessive grouting of underground conduits exist?**
- Response 34:** Potential issues related to blasting activities are under the jurisdiction of ODNR, Division of Mineral Resources Management. Questions regarding this issue should be directed to this authority.
- Comment 35:** **How often will drinking water evaluations for contaminants be performed per section 40 CFR 141.402-**

c-2? How often will drinking water evaluations for disinfectants be performed per section 40 CFR 141.132, 141.135, 141.600-141.603, and 141.620-141.268? How often will drinking water evaluations for inorganic contaminants and constituents be performed per 40CFR 141.23 and Appendix A to Subpart C of Part 141, 40 CFR 141.23, 141.41, 141.86 - 141.88, and 141.135? How long will these evaluations take to complete and will the final assessments be made public domain within a reasonable amount of time?

Response 35: This public hearing was for the receipt of an wastewater discharge permit application. The question posed is outside the review of this application.

Comment 36: **A May 2017 letter asked that wetlands adjacent to the proposed mining properties be protected. Did Ohio EPA receive this notification from ODNR? On what date?**

Response 36: Ohio EPA received the letter and provided response to ODNR. The letter and the date in which it was received can be viewed on the Ohio EPA eDoc website, <http://edocpub.epa.ohio.gov/publicportal/ViewDocument.aspx?docid=567855> . This information also is available by submitting a public records review request.

Comment 37: **Is Ohio EPA aware of the presence of these two adjacent wetlands which will be indirectly affected by the blasting and dewatering operations?**

Response 37: Ohio EPA is aware of four wetlands within or adjacent to the proposed mining site. As a result of information gathered at the February 2018 public hearing, Ohio EPA worked with the land owners and has categorized the wetlands in question.

Comment 38: **The company has successfully evaded Ohio's antidegradation rule. Why is this?**

Response 38: The applicant has provided a revised antidegradation form. The information provided on the form is consistent with the requirements within the antidegradation rule.

Comment 39: **Will bioassay or toxicity tests be administered using WET guidelines to measure the accumulative effects of chemicals present in the discharge effluent?**

Response 39: Ohio EPA recently evaluated the water quality of the proposed receiving stream using biological indicators. Ohio EPA routinely performs these evaluations as part of the TMDL process.

Comment 40: **Will a level 1 ecological survey be completed for this parcel?**

Response 40: Ohio EPA does not require the completion of ecological surveys as part of an NPDES permit application process. Ohio EPA has recently completed an Ohio Rapid Assessment Method (ORAM) for the four known wetlands within and adjacent to the proposed mining site.

Comment 41: **Will Ohio EPA coordinate an endangered species effect determination with the U.S. Fish and Wildlife Service?**

Response 41: Ohio EPA has an established procedure in place for the protection of federal and state endangered species. Ohio EPA is not providing funding for the project and therefore would not anticipate coordinating with the U.S. Fish and Wildlife Service on an endangered species effect determination.

Comment 42: **Describe the process in which a permit is approved or denied.**

Response 42:

1. Application is received.
2. Application is reviewed to ensure required information is included (additional information can be requested if deemed necessary).
 - 2a. The application is public noticed and a comment period is open.
 - 2b. A public hearing may be held.
3. The Ohio EPA director determines if the application will be processed or denied.
4. If it is determined that the application will be processed, a draft permit is created.
5. The draft permit is public noticed for a public comment period.
 - 5a. A public hearing may be held.
 - 5b. All comments received during the public comment period are considered.
6. The director of Ohio EPA will then issue a final action. These can include: issuing the draft as a final permit; issuing

a revised permit as a final permit or issuing a proposed denial.

7. If the applicant receives a final permit, that permit would be in effect for a period not to exceed five years.

8. If a proposed denial is issued, the applicant could appeal to the Environmental Review Appeals Commission (ERAC) or Ohio EPA's hearing examiner, as appropriate.

Note: Any final action of the director is appealable to ERAC, an independent group appointed by the governor to review the application of Ohio's environmental laws.

Comment 43: Define wastewater.

Response 43: "Wastewater" in the context of NPDES permitting requirements is "pollution". Please see Ohio Revised Code 6111.01 for definitions commonly used by the Ohio EPA, Division of Surface Water:
<http://codes.ohio.gov/orc/6111.01>.

Comment 44: Does the permit only grant permission to discharge? Is the extraction of ground water regulated by the NPDES permit?

Response 44: The discharge of pollutants to waters of the state requires a wastewater discharge permit. The extraction of ground water is not regulated by a wastewater discharge permit. Questions or concerns regarding conflicts that may arise due to the extraction of ground water should be directed to ODNR.

Comment 45: How would dangerous pollutants, too small for a settling basin (such as heavy metal ions), be treated?

Response 45: Monitoring for dissolved and suspended solids is routinely included in NPDES permits issued to the mining industrial sector.

Comment 46: How is the cleaning and transportation of the settling basin monitored and enforced? Would the basin be inspected by Ohio EPA?

Response 46: Please refer to Response 5 regarding permits-to-install (PTI). Both PTI and NPDES permits require that wastewater treatment units be maintained in good working order. A review of the status for wastewater treatment units is routinely included in Ohio EPA inspections.

Comment 47: At what frequency would Ohio EPA inspect the quarry and the settling basin? Would the inspection report be made available to the public and within what timeframe?

Response 47: At a minimum, Ohio EPA performs an inspection before a wastewater discharge permit renewal. Please refer to Response 22 for additional information regarding inspections. Inspection reports are typically made available for public viewing within 30 days of report issuance.

Comment 48: Given Ohio EPA's mission is to protect human and environmental health. How would issuing this permit draft substantiate the Agency's core mission more effectively than denying this permit?

Response 48: Ohio EPA is reviewing the wastewater discharge permit application and no permit has been issued. However, when reviewing applications and issuing permits, Ohio EPA is bound to follow the rules and regulations set in Ohio Revised Code. The rules and regulations are set to be protective of human health and the environment.

Comment 49: How many Ohio EPA wastewater (NPDES) discharge permits are issued and how many are denied and withdrawn; what is the total number of permit applications each year? Last five years?

Response 49: The requested information for Oct. 1, 2017, through Oct. 1, 2018:

- NPDES permit applications withdrawn = 141
- NPDES permits renewed = 699
- New NPDES permits issued = 82
- Modified NPDES permits = 56
- NPDES permits no longer required = 53.

The information requested is not readily available for the past five years.

Comment 50: What quantity and how long would the discharges be?

Response 50: The applicant has revised the total discharge amount requested. The proposed volume to be discharged would be 480,000 gallons over 24 hours.

Comment 51: **Has an Ohio EPA study been done to look the project and reported to communities to review and vote on?**

Response 51: Ohio EPA routinely seeks input from the public. Public comment periods are provided for revisions of the Ohio Administrative Code and new or modified wastewater discharge permits. The public also is provided an opportunity to provide comment during the TMDL process; however, Ohio EPA may not consider the popularity of an application when considering if the proposed action meets Ohio's laws

Comment 52: **Would the company build a pond or basin to prevent discharges which can potentially impact homeowners and the environment?**

Response 52: If it is determined that additional treatment would be required in order to meet final effluent limitations, the design specifications of the treatment system are required to receive approval from Ohio EPA before installation.

Comment 53: **Should pollutants be spilled into the creek, would there be a fund available by Enon Sand & Gravel to do environmental cleanup?**

Response 53: Under Ohio's rules and laws, Ohio EPA cannot require a clean-up fund as part of a wastewater discharge permit.

Comment 54: **If the TSS maximum daily value = 45 mg/liter, how much TSS would be being sent down the stream if the discharge is 720,000 gallons per day? How many pounds of TSS would be allowed per day into the unnamed tributary of the Mud Run. Please calculate in pound per day for TSS. Please explain 6.5-9.0 su as I am unfamiliar with this term.**

Response 54: The proposed volume to be discharged has been revised. The new proposed volume to be discharged is 480,000 gallons over a period of 24 hours. To convert mg/l concentration to pounds per day the calculation is as follows:

Concentration in mg/l x million gallons per day x 8.35 = pounds per day.

6.5-9.0 s.u. is a reference to the water quality standard for pH. The "s.u." is an abbreviation for standard unit.

End of Response to Comments