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August 30, 2019

[William.fischbein@epa.ohio.gov](mailto:William.fischbein@epa.ohio.gov)

William Fischbein  
Ohio EPA  
P.O. Box 1049  
Columbus, OH 43216-1049

Re: Enon Sand & Gravel, LLC  
Application for NPDES Permit

Dear Mr. Fischbein:

This letter responds to the July 29, 2019 letter from Bob Ostendorf Jr. of Ohio EPA to Cory Kiser of Enon Sand & Gravel, LLC (“Enon”) regarding Enon’s application for an NPDES permit. Enon is a member of the John R. Jurgensen Companies. The Jurgensen Companies operate a number of limestone, sand, and gravel surface mines throughout Ohio, Indiana, and Kentucky, and, as set out below, have extensive experience in addressing potential impacts from mining operations.

Dating back to the initial meeting between Enon representatives and representatives of Ohio EPA’s Division of Surface Water, Ohio EPA has been requesting Enon to submit a work plan to further study the lithology, ground water flow, and ground water/surface water interactions near the Vanderglas and Culbertson Fens. Additionally, as part of that work plan, Ohio EPA is requesting that Enon provide additional information about the ground water flow relative to the baseflow for the unnamed tributary of Mud Run.

As you know, Enon is proposing to surface mine limestone from its property in Mad River Township formerly owned by Dan Demmy (the “Demmy Property”). The mining plan for the Demmy Property is bifurcated into Phase I and Phase II. The NPDES application relates to mining Phase I.

With respect to Phase I, Enon will be “dewatering” the mining pit to create a dry working environment. ODNR’s Division of Mineral Resources Management regulates dewatering activity associated with surface mining. In 2017, ODNR approved Enon’s application to amend the existing Demmy Property mining permit to allow for dewatering. Approval of the permit

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amendment required a thorough hydrologic study of the area ground water. Citizens Against Mining (“CAM”), a group of nearby residents, appealed ODNR’s approval of the dewatering amendment to the Ohio Reclamation Commission in 2018, which affirmed ODNR’s approval.

Even though the primary purpose of the hydrologic study is to develop a regulatory cone of depression for water supply replacement purposes, the transcript of the multi-day hearing before the Reclamation Commission is replete with references to whether dewatering would impact the Vanderglas Fen and wetlands. In the end, ODNR’s hydrology expert, Enon’s hydrology expert, and CAM’s hydrology expert all agreed that to the extent that the Vanderglas Fen was being fed by an aquifer, that aquifer was “perched” above the lower aquifer to be impacted by the dewatering activity, meaning there is an aquitard below the fen which would not allow the lower aquifer to communicate with the perched aquifer. The following exchange between Mr. Hunstman, the expert for CAM, and Mr. McCarter, Chair of the Reclamation Commission, is indicative of that testimony:

Q. Do you not know whether it's fed by a perched aquifer?

A. Just from my observations of visiting the Vanderglas, it has the appearance of being recharged by local springs, perched aquifer.

CHAIRMAN McCARTER: Say that again.

THE WITNESS: My visit to the Vanderglas wetlands I identified as shown in the picture that I provided spring zones coming out of the sidewalls of the bank going into the wetland and that in order to determine -- or in order for that to continually flow into it, it would probably be a perched aquifer.

Q. [Chairman McCARTER]: A perched aquifer being an aquifer raised above that level?

A. [Mr. Hunstman]: It's raised above the regional groundwater level. The Culbertson well, the depth to water was 75 feet. The springs that are coming up were much, much higher so that would indicate that that is perched water. It's up higher than that. It hasn't gone down to the regional

CHAIRMAN McCARTER: Perched above the discharge point at the fen, correct?  
Correct.

CHAIRMAN McCARTER: Because there is an aquitard below it?

THE WITNESS: Yes.

(Transcript Vol. II, at 301-02.)

After the multi-day hearing, there was simply no evidence that suggested that the Vandergals Fen will be impacted by Enon’s dewatering activity, and further study of this issue at significant cost is not likely to yield a different result. Further, and importantly, this is separate and apart from the issue of whether Ohio EPA has the authority to require such a work plan in the context of an NPDES permit application.

Regardless, Enon offers a better solution to address any concern about impacts from its dewatering activity. First, it must be understood that the mining pit will be vertically and

horizontally developed over time. In other words, this is a gradual process with approximately 4 acres per year being mined, and developing the pit to full depth and width will take decades. This means that there will not be any drastic changes to ground water levels and therefore, these impacts can be effectively monitored.

To that end, Enon is on record stating that it will establish a network of ground water monitoring wells. Enon will also develop an on-site monitoring well equipped with a pressure transducer and datalogger for continuous long-term monitoring. This monitoring regimen will track the progress of the cone of depression relative to nearby water supplies. Dennis Garrison, President of Enon, testified, "And part of our plan, it's been alluded to in previous testimony, is before we would start dewatering, we establish well monitoring networks that we can also keep track of the cone of depression as the quarry develops. Those well monitoring networks let us know when a well is going to be affected or might be affected well ahead of a time when there's a problem with the well basically." (Transcript Vol. IV, at 941-42.)

Eagon & Associates will establish the monitoring network, utilizing existing wells to verify that the draw down is conforming to the model's projection. If the monitoring network shows the potential for significant off-site impacts, Enon will revise its mining plan to avoid impacts that it cannot reasonably and easily mitigate. Here again, Mr. Garrison testified as follows:

Q. And why would you decide to not mine as deep as you otherwise could or would?

A. Because of the remediation impacts upon neighboring wells.

Q. If I understand, and tell me if I've got this wrong, that in using the monitoring system, you can determine if there might be a well impact that could be difficult to remediate?

A. Yes, that's correct.

Q. And the way to avoid that is to actually decrease the depth of mining? Would that decrease the impact of the dewatering?

A. Well, you can decrease the depth of mining, or you can also allow groundwater to if I can use the word reflood areas that have [previously] been mined which obviously also have a direct affect [sic] upon the groundwater. It could be a combination of both or one or the other.

(Transcript Vol. IV, at 944.)

As you can see from Mr. Garrison's testimony, when necessary, Enon will avoid impacts to water supplies by adjusting its mining plan based on what the monitoring network shows. This is not a new practice for the Jurgensen Companies.

In conclusion, for the reasons stated above, Enon will not be proposing a work plan as requested by Ohio EPA. Rather, Enon proposes, and would accept, terms in its NPDES permit with respect to a monitoring network and mitigation and remediation.

William Fischbein  
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If you have any questions, please contact me.

Very truly yours,

EASTMAN & SMITH LTD.

A handwritten signature in black ink, appearing to read "B. Barger", with a long horizontal flourish extending to the right.

Brian P. Barger

BPB/clb