



Mike DeWine, Governor
Jon Husted, Lt. Governor
Laurie A. Stevenson, Director

Certified Mail

**Re: Project Cardinal
Permit - Intermediate
Approval
401 Wetlands
Licking
DSW401227893W**

June 24, 2022

Brent Bradbury
MBJ Holdings, LLC
8000 Walton Parkway, Suite 120
New Albany, OH 43054
bbradbury@newalbanycompany.com

Subject: Project Cardinal (Intel Project)
Licking County / Jersey Township
Grant of a Level Three Isolated Wetland Permit
Ohio EPA ID No. 227893W

Dear Stakeholders:

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

Ohio Isolated Wetland Permit

Pursuant to Ohio Revised Code Chapter 6111, I hereby conclude that the above-referenced project will comply with the applicable provisions of Ohio Revised Code Sections 6111.02 through 6111.028. This authorization is specifically limited to an Ohio Isolated Wetlands Permit and an ORC 6111.03(J)(1) approval for impacts to ponds that are waters of the state (here after referred to as "permit") with respect to water pollution and does not relieve the Permittee of further Certifications or Permits as may be necessary under the law. I have determined that a lowering of water quality in the Upper Scioto River Watershed (HUC 05060001) and Licking River Watershed (HUC 05040006) as authorized by this permit is necessary. I have made this determination based upon the consideration of all public comments, if submitted, and the technical, social, and economic considerations concerning this application and its impact on waters of the state. In accordance with ORC Section 6111.021(C), this permit shall serve as the state's 401 water quality certification to the extent that any of these waters are deemed jurisdictional under the Federal Water Pollution Control Act.

PART I ON-SITE WATER RESOURCES AND IMPACTS

A. Watershed Setting

The project is located in two 8-digit HUC watersheds. The southwest portion of the project is in Duncan Run (05060001-13-07) within the Upper Scioto Watershed, and the remainder of the project area is in Headwaters Raccoon Creek (05040006-03-03) within the Licking River Watershed.

Duncan Run has an area of 16.78 square miles and is a designated warmwater habitat stream and a primary contact recreation water. Headwaters Raccoon Creek has an area of 27 square miles. Raccoon Creek is a designated warmwater habitat stream and a primary contact recreation water.

B. Project Description

The purpose of the proposed development is to construct an industrial facility in phases, with the initial phase providing approximately 2.88 million square feet of occupiable space for two (2) semiconductor chip manufacturing complexes. The initial phase is anticipated to include two (2) chip manufacturing buildings, one (1) office building, and associated support facilities and infrastructure.

C. Impacts

Impacts to isolated wetlands are as follows:

The wetlands will be filled and graded for the construction of the manufacturing plants and associated facilities.

Wetland ID	Isolated or Non-isolated?	Forested or Non-Forested	Category	Total Acreage on Site	Total Acreage Impacted	Percent Avoided
4	Isolated	Non-forested	1	0.13	0.13	0
5	Isolated	Non-forested	2	0.31	0.15	0
		Forested			0.16	
7	Isolated	Non-forested	1	0.13	0.13	0
8	Isolated	Non-forested	2	0.57	0.57	0
9	Isolated	Non-forested	2	0.66	0.66	0
10	Isolated	Non-forested	1	0.24	0.12	0
		Forested			0.12	
11	Isolated	Non-forested	2	0.74	0.10	0
		Forested			0.64	
12	Isolated	Non-forested	2	0.36	0.36	0
13	Isolated	Forested	2	0.33	0.33	0

Wetland ID	Isolated or Non-isolated?	Forested or Non-Forested	Category	Total Acreage on Site	Total Acreage Impacted	Percent Avoided
14	Isolated	Non-forested	1	0.12	0.12	0
15	Isolated	Non-forested	1	0.03	0.03	0
16	Isolated	Non-forested	2	1.63	1.63	0
17	Isolated	Non-forested	1	0.16	0.16	0
18	Isolated	Non-forested	2	0.04	0.04	0
19	Isolated	Non-forested	2	0.03	0.03	0
20	Isolated	Non-forested	2	0.03	0.03	0
21	Isolated	Forested	1	0.18	0.18	0
22	Isolated	Non-forested	1	0.03	0.03	0
23	Isolated	Forested	1	0.13	0.13	0
24	Isolated	Non-forested	1	0.04	0.04	0
25	Isolated	Forested	2	0.12	0.12	0
26	Isolated	Forested	1	0.06	0.06	0
27	Isolated	Forested	1	0.03	0.03	0
28	Isolated	Forested	2	0.12	0.12	0
29	Isolated	Forested	2	0.04	0.04	0
30	Isolated	Forested	2	0.08	0.08	0
31	Isolated	Non-forested	1	0.12	0.12	0
32	Isolated	Forested	2	0.69	0.69	0
33	Isolated	Forested	2	0.06	0.06	0
34	Isolated	Non-forested	1	0.32	0.32	0
35	Isolated	Non-forested	1	0.48	0.48	0
36	Isolated	Non-forested	1	0.90	0.90	0
37	Isolated	Non-forested	1	0.07	0.07	0
38	Isolated	Non-forested	1	0.60	0.60	0
39	Isolated	Forested	1	0.06	0.06	0
40	Isolated	Forested	1	0.05	0.05	0
41	Isolated	Non-forested	1	0.29	0.29	0
Totals				9.98	9.98	0

Impacts to isolated ponds authorized under ORC 6111.03(J)(1) are as follows:

Pond ID	Isolated or Non-isolated?	Total Acreage on Site	Total Acreage Impacted
1	Isolated	0.32	0.32
2	Isolated	0.26	0.26
3	Isolated	0.36	0.36

Pond ID	Isolated or Non-isolated?	Total Acreage on Site	Total Acreage Impacted
4	Isolated	0.19	0.19
5	Isolated	0.63	0.63
Totals		1.76	1.76

PART II TERMS & CONDITIONS

- A. Terms and conditions outlined in this section apply to project as described in this permit.
- B. This permit shall be valid for a period of 5 years from the date of issuance.
- 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. A copy of this permit shall remain on-site for the duration of the project construction activities.
- E. In the event of an inadvertent spill, the Permittee must immediately call the Ohio EPA Spill Hotline at 1-800-282-9378, as well as the Ohio EPA Section 401 Manager (614-644-2001).
- 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 Manager (614-644-2001), for further evaluation.
- G. Pesticide application(s) for the control of plants and animals shall be applied in accordance with the NPDES General Permit to Discharge Pesticides In, Over or Near Waters of the State available at: <https://epa.ohio.gov/divisions-and-offices/surface-water/permitting/pesticide-application-discharges--general-permit> and may require a pesticide applicator license from the Ohio Department of Agriculture.
- H. 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.
- I. In the event that there is a conflict between the permit application, and the conditions within this permit, the condition shall prevail unless Ohio EPA agrees, in writing, that the permit application or other provision prevails.

- J. The Permittee shall provide electronic maps of the development area to Ohio EPA 401 WQC and Isolated Wetland 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: EPA.401Webmail@epa.ohio.gov

If the files are too large to send by e-mail (over 25 MB), a disk containing the electronic files shall be mailed to the following address:

Ohio Environmental Protection Agency
Division of Surface Water
Attn: 401 Section Manager
50 West Town Street, Suite 700
PO Box 1049
Columbus, OH 43216-1049

- K. 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
Central District Office
50 W. Town Street, Suite 700
Columbus, Ohio 43215-1049
614-728-3778

Additional information regarding environmental permitting assistance at Ohio EPA can be found at <https://epa.ohio.gov/wps/portal/gov/epa/stay-compliant/get-help/permit-assistance>

- L. Best Management Practices (BMPs)
1. All water resources and their buffers 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. These materials shall remain in place and be maintained throughout the construction process.
 2. All BMPs for stormwater 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 National Pollutant Discharge Elimination System (NPDES) general permit for stormwater discharges associated with construction activities (construction general permit), if required.

A copy of the Rainwater and Land Development Manual is available at:
<https://epa.ohio.gov/wps/portal/gov/epa/divisions-and-offices/surface-water/guides-manuals/rainwater-and-land-development>

A copy of the NPDES construction general permit is available at:
https://epa.ohio.gov/static/Portals/35/permits/OHC000005/Final_OHC000005.pdf

3. Straw bales shall not be used as a form of erosion/sediment control.
4. Fill material 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 in accordance with ODOT specifications; free of exposed re-bar; and, free of all debris, soil and fines.
7. Chemically treated lumber which may include, but is not limited to, chromated copper 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 shall be replaced with appropriate tree species native to Ohio.

M. Wildlife Protection

1. 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.
2. In the event that an eastern massasauga rattlesnake (*Sistrurus catenatus catenatus*) is encountered during construction of the project, work should immediately cease and the Ohio Department of Natural Resources, Division of Wildlife contacted. Caution should be employed during construction and during the snakes' active season (March 15 - November 15).

PART III MITIGATION

A. Description of Required Mitigation

As mitigation for 3.14 acres of wetland impact, including 0.12 acres of forested category 1 wetland, 0.8 acres of forested category 2 wetland, 0.38 acres of non-forested category 1 wetland, and 1.84 acres of non-forested category 2 wetland, the permittee shall deduct 2.18 acres of forested and 4.25 acres of non-forested (6.43 acres total) from the Avis Road Pooled Mitigation Area located in Franklin County within the Upper Scioto watershed (HUC 05060001).

As mitigation for 6.84 acres of wetland impact, including 0.51 acres of forested category 1 wetland, 1.44 acres of forested category 2 wetland, 3.16 acres of non-forested category 1 wetland, and 1.73 acres of non-forested category 2 wetland, the permittee shall purchase 0.7 credits from Shannon Valley Mitigation Bank located in Muskingum County and 13.7 credits from Stream + Wetlands In-lieu fee program within the Licking River watershed (HUC 05040006).

B. Timing of Mitigation Requirements

1. Within 30 days of the date of this permit, a copy of the fully executed mitigation bank agreement with Shannon Valley Mitigation Bank and a fully executed in-lieu fee agreement with Stream + Wetlands In-lieu Fee program shall be provided to Ohio EPA. **Impacts to waters of the state shall not occur until the terms of this condition have been met.**

C. Reporting

1. Annual Update Reports

A project construction update report shall be submitted to Ohio EPA by December 31 of each year following the date of this permit and until project construction is complete. Each update report shall contain, at a minimum, the following information:

- a. 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.
- b. Current contact information for all responsible parties including phone number, e-mail, and mailing addresses. For the purposes of this condition, responsible parties include, but may not be limited to the Permittee, consultant, and project construction manager.
- c. As-built drawings sized 11" by 17" (to scale) of each of the construction areas, once construction is complete.

PART IV NOTIFICATIONS TO OHIO EPA

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

Permittee Name: MBJ Holdings, LLC
Project Name: Project Cardinal (Intel Project)
Ohio EPA ID No.: 227893W

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 "Treasurer, State of Ohio," 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
30 East Broad Street, 4th Floor
Columbus, Ohio 43215

Sincerely,



Laurie A. Stevenson
Director

ec: Cecil Cox, cecil.m.cox@usace.army.mil, Department of the Army, Huntington District, Corps of Engineers
Wes Barnett, wes.barnett@usace.army.mil, Department of the Army, Huntington District, Corps of Engineers
Kerryann Weaver, weaver.kerryann@epa.gov, U.S. EPA, Region 5
Patrice Ashfield, Ohio@fws.gov, U.S. Fish & Wildlife Service
Mike Pettegrew, Mike.Pettegrew@dnr.state.oh.us, ODNR, Office of Real Estate
Diana Welling, dwelling@ohiohistory.org, Ohio Historical Preservation Office
Joni Lung, joni.lung@epa.ohio.gov, Ohio EPA, DSW, 401/Wetlands/Mitigation Section
Andrea Kilbourne, Andrea.Kilbourne@epa.ohio.gov, Ohio EPA, DSW, Mitigation Coordinator
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Vince Messerly, vmesserly@streamandwetlands.org, Stream + Wetlands Foundation
Richard Roggenkamp, droggenkamp@newalbanycompany.com
Heather Dardinger, hdardinger@emht.com

Attachments: Wetlands within the Project Area
Response to Comments

Ohio EPA has developed a customer service survey to get feedback from regulated entities that have contacted Ohio EPA for regulatory assistance, or worked with the Agency to obtain a permit, license, or other authorization. Ohio EPA's goal is to provide our customers with the best possible customer service, and your feedback is important to us in meeting this goal. Please take a few minutes to complete this survey and share your experience with us at <http://www.surveymonkey.com/s/ohioepacustomersurvey>.

Attachment 1 – Wetlands within the Project Area





Division of Surface Water Response to Comments

Project: MBJ Holdings, LLC (Intel Project)
Ohio EPA ID #: 227893W

Agency Contacts for this Project

Division Contact: Joni Lung, (614) 644-2152, joni.lung@epa.ohio.gov
Public Involvement Coordinator: Max Moore, (614) 644-2160,
max.moore@epa.ohio.gov

Ohio EPA held a public information session and hearing on May 24, 2022, regarding a Level 3 Isolated Wetland Permit application submitted by MBJ Holdings, LLC for the purpose of constructing a semiconductor manufacturing facility. This document summarizes the comments and questions received at the public hearing and during the associated comment period, which ended on Jun 1, 2022.

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.

General Concerns

Comment 1: Several commenters indicated that the public notification process for the hearing was not sufficient or efficient. They recommended signs be placed around the properties notifying residents of an impending hearing.

Response 1: Ohio EPA's public notice process and procedures are outlined in rule and law. The public notice process for this permit application complied with all relevant rules and laws. This included publishing in the newspaper of greatest circulation for the area, creating a press release for local media, and posting information on our website regarding the hearing.

Comment 2: **Several commenters requested delaying issuance or denying the isolated wetland permit since they had unresolved questions and concerns.**

Response 2: The Level 3 isolated wetland permit application was thoroughly reviewed in accordance with Ohio EPA's rules and laws, including antidegradation. All public comments were considered as a part of the antidegradation review. Based upon the application materials, and subsequent submittals by the applicant, the project will comply with all required rules and laws and will not violate any water quality standards. Therefore, it would be inappropriate to delay or deny the permit issuance.

Comment 3: **One commenter requested an additional public hearing to address the comments and concerns raised by the public.**

Response 3: The Agency considered this request. Given the public interest in the project and the socio-economic benefits from the project, the one public hearing regarding the isolated wetland permit was sufficient. However, there may be additional opportunities for the public to engage and comment on the project for other Ohio EPA permits, such as the air permit.

Stormwater and Wastewater Concerns

Comment 4: **One commenter asked if they will be using permeable pavement.**

Response 4: Permeable pavement is not identified in the project's Stormwater Pollution Prevention Plan (SWPPP).

Comment 5: **One commenter asked if they will be using salt for de-icing parking lots in the winter.**

Response 5: The current SWPPP is for construction activities at the site and does not contain details on housekeeping activities when the facility is operational, such as de-icing.

Comment 6: **Several commenters expressed concern over the large amount of impervious surfaces that will result from the project.**

Response 6: The required post-construction water quality treatment under the stormwater construction general permit is a direct function of the resulting impervious and pervious cover as well as the total project area. In other words, both the area and percentage of imperviousness of a development are taken into account when

designing post-construction stormwater management under the construction stormwater general permit. The control of the rate of stormwater runoff (often viewed as the quantity of runoff) discharged by development is regulated at the local level in Ohio.

Comment 7: **One commenter asked where the retention ponds will be located and which waterway will receive the discharge.**

Response 7: The SWPPP indicates 3 separate stormwater basins are planned along the east boundary (Mink Street), one stormwater basin near the northeast corner (Green Chapel Rd. and Clover Valley Rd.), and one stormwater basin near the southwest corner (Clover Valley Rd. and Dragonfly Way). The plan states the receiving waters from the project are Duncan Run and Kirby [Kiber] Creek, which are tributaries of Big Walnut Creek and the Licking River, respectively.

Comment 8: **One commenter asked how the project will mitigate runoff.**

Response 8: See responses 6 and 7 above.

Comment 9: **One commenter asked how the contaminated wastewater from the manufacturing process will be disposed.**

Response 9: Industrial wastewater from the Intel facility is proposed to go to the City of Columbus Southerly Water Resource Recovery Facility.

Comment 10: **One commenter asked how many gallons of water the wetlands within the project area contain.**

Response 10: The volume of water contained in the isolated wetlands on the property is not a required measurement as part of the application and permitting processing for isolated wetlands. Impacts and mitigation are reviewed and calculated based upon the acreage of wetland. A total of 37 wetlands (9.98 acres) are authorized for impact by this permit.

Ground Water Concerns

Comment 11: **One commenter asked how potential chemical spills will be addressed and what effect those spills could have on the aquifer.**

Response 11: As a condition of the isolated wetland permit, any spills into surface waters of the state are required to be reported to the Ohio EPA Spill Hotline and immediate remediation will be required. Quick response

and remediation of any potential spills should prevent any contaminants from reaching the ground water aquifer.

Comment 12: **Several commenters expressed concerns about the possible loss of ground water recharge from wetlands and loss of water volume for private water wells.**

Response 12: Water for initial project construction will temporarily be drawn from the ground until early 2023, but private wells are not expected to be impacted. Water withdrawn from groundwater during this temporary phase will be used for bathrooms, dust control, cleaning of construction equipment, etc. Larger water draws needed by Intel for microchip manufacturing will occur after ongoing operations are connected to the City of Columbus' public water system. Also, Ohio EPA Division of Drinking and Ground Waters (DDAGW) completed a technical review of the proposed project and concluded that the project would have no impact on any public water supply.

Comment 13: **Several commenters expressed concerns about the potential contamination of ground water and private water wells.**

Response 13: See response 11 and 12 above. Private water wells are regulated by the Ohio Department of Health (ODH) and local health departments. There are several resources available on the ODT website at: <https://odh.ohio.gov/know-our-programs/private-water-systems-program/private-water-systems-program>.

Comment 14: **One commenter asked for guidance from the Agency on private water wells and how the overall project may affect those wells.**

Response 14: See responses 11 and 12 above.

Alternatives Analysis

Comment 15: **One commenter stated that the off-site alternative presented in the permit application was not a viable or realistic alternative.**

Response 15: It is Ohio EPA's position that the applicant submitted an acceptable alternative analysis, including both on-site and off-site alternatives, that met the regulatory requirements for the Agency to complete the application review.

Wetland Mitigation

Comment 16: Several commenters stated that the mitigation for impacts in the Licking River watershed should be located on or very near the project area, similar to the Avis Road pooled mitigation site for the Upper Scioto River watershed impacts. They stated that a potential in-lieu fee project located miles away from the project area would not adequately address the functions lost within the immediate watershed (Headwaters of Raccoon Creek)

Response 16: Ohio EPA regulations favor wetland mitigation bank credit and in-lieu fee credit over on-site permittee-responsible wetland mitigation (such as on-site wetland establishment); therefore, the purchase of in-lieu fee credits from an in-lieu fee program that serves the Licking River watershed is an acceptable method of compensatory mitigation for the project and is in accordance with Ohio EPA's rules and laws that require the mitigation to occur within the same 8-digit Hydrologic Unit Code (HUC) watershed. Additionally, the statutory mitigation ratios require more than double the amount of mitigation acreage for those wetlands that will be impacted. Specifically, 14.4 acres of wetland mitigation is required within the Licking River watershed to compensate for 6.84 acres of impact. Across both 8-digit HUC watersheds (Licking River and Upper Scioto), a total of 20.83 acres of wetland mitigation is required for the 9.98 acres of total impact.

Comment 17: Several commenters stated that allowing the purchase of credits through an in-lieu fee program within the Licking River watershed would not compensate for the lost flood attenuation and groundwater recharge that the on-site wetlands are currently providing to surrounding properties, and this would lead to additional flooding in the area.

Response 17: See response 16 above. Additionally, the applicant is required to obtain the required storm water construction general permit before commencing construction, which includes the development of a SWPPP and use of appropriate post construction Best Management Practices (BMPs). The post construction BMPs will replace any flood attenuation currently being provided by the on-site wetlands.

End of Response to Comments