



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

Certified Mail

OHIO E.P.A.

OCT 29 2014

ENTERED DIRECTOR'S JOURNAL

October 29, 2014

**Re: NRG Power/Dredging
Permit - Short Term
Approval
401 Wetlands
Lorain
DSW401144377**

NRG Power Midwest LP
c/o Nate Rozic
121 Champion Way, Suite 300
Canonsburg, PA 15317-5817

**Subject: Lorain County / City of Avon Lake
Grant of a Section 401 Water Quality Certification; Preferred Design
Alternative
NRG Power/Dredging
ACOE Public Notice No. 2000-00838
Ohio EPA ID No. 144377**

Dear Stakeholders:

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.

This authorization is specifically limited to a Section 401 Water Quality Certification 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 Lake Erie (04120200) as authorized by this Certification 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.

PART I ON-SITE WATER RESOURCES AND IMPACTS

- A. Watershed Setting:
HUC (8-Digit) and Drainage Name: Lake Erie (04120200)

Designations: exceptional warmwater habitat, superior high quality water, public water supply, agricultural water supply, industrial water supply and bathing waters.

B. Project Description

This 401 Water Quality Certification is for the dredging of the intake and discharge channels at NRG's Avon Lake Power Plant. The proposal is to use a barge mounted clamshell type excavating bucket to fill bottom dump scows. Based on averages of samples tested, 11.3% of the material in the intake channel is silt or 2,300 cubic yards, 88.7% sand or 17,700 cubic yards. In the discharge channel approximately 3% of the material is silt or 1,300 cubic yards and 97% is sand or 41,700 cubic yards. The scows will be towed using tug boats to a nearshore placement area that has been reviewed and approved by Ohio Department of Natural Resource's Office of Coastal Management west of the facility, where the primarily sandy material is most likely to serve as beach sand renourishment.

C. Impacts

Impacts associated with this project will be solely to the intake and discharge channels for the NRG power plant. Approximately 20,000 cubic yards of built-up sand/sediment material will be dredged from the intake channel and 43,000 cubic yards from the discharge channel.

PART II TERMS & CONDITIONS

- A. Terms and conditions outlined in this section apply to project and mitigation construction as described in this Certification.
- B. This Certification shall be valid for a one-time dredging event. The current schedule is for the dredging to occur in 2017. This Certification is valid for five (5) years from date of issuance.
- C. The Certification Holder shall notify Ohio EPA, in writing, and in accordance with *Part IV (Notifications to Ohio EPA)* of this Certification, upon the start and completion of site development and mitigation construction.
- D. By December 31 of each year following the date of this Certification and through the duration of project and mitigation construction, a "project update report" shall be submitted to Ohio EPA. This report shall document the status of the dredging and open lake placement (placement) activities at the development site including dates dredging and placement was started and completed, or are expected to be started and completed. If dredging and placement activities have not been completed, a drawing shall be provided, which shows the locations and cubic feet

of material that has not yet been dredged and/or placed. If dredging and placement activities have been completed, then as-built drawings shall be submitted, which show where fill was placed.

- E. A copy of this Certification shall remain on-site for the duration of the project and mitigation construction activities.
- F. In the event of an inadvertent spill, the Certification Holder must immediately call the Ohio EPA Spill Hotline at 1-800-282-9378, as well as the Ohio EPA Section 401/IWP Manager (614-644-2872).
- G. 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.
- H. 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.
- I. 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.
- J. 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 Certification.
- K. In the event that there is a conflict between the Certification application, including the mitigation plan, and the conditions within this Certification, the condition shall prevail unless Ohio EPA agrees, in writing, that the Certification application or other provision prevails.
- L. The Certification Holder shall provide electronic maps of the dredge areas and the placement area to Ohio EPA 401 WQC and Isolated Wetland Permitting Section within 30 days of the date of this certification. JPEG, TIFF, PDF or BMP files are acceptable. 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, a disk containing the electronic files shall be mailed to the following address:

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

- M. 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
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

N. 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 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 National Pollutant Discharge Elimination System (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

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, if used, shall be a minimum size/weight of concrete as specified in the attached drawings, 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.
9. Grass filter strips shall be established adjacent to all avoided/relocated and un-culverted waters of the state, including wetlands and existing buffer areas. Filter strips shall be vegetated with non-invasive species native to Ohio and shall be designed and implemented in accordance with the most current edition of the Ohio Department of Natural Resources' Rainwater and Land Development Manual.
10. Dredging Activities
 - a. Dredging operations shall not take place within 3000 feet up-current of municipal or industrial water supply intakes. This project is within 3000 feet of the Avon Lake drinking water intakes. Prior to commencing dredging operations, NRG shall notify the following Avon Lake personnel that dredging is to about to commence, with open lake placement:

Mr. Rick Eberle
Chief of Utility Operations
Avon Lake Municipal Utilities
201 Miller Road
Avon Lake, Ohio 44012
440-933-6226

Mr. Steve Heimlich
Water Treatment Plant Superintendent
Avon Lake Municipal Utilities
201 Miller Road
Avon Lake, Ohio 44012
440-933-3229

- b. Prior to commencement of dredging operations, dredge operators must notify area water users, municipal and industrial, whose water quality may be affected by the dredge's turbidity plume and its associated contaminants.
- c. Steps shall be taken not to come into contact with municipal, industrial or other water intakes or effluent structures which may be located in the project area.
- d. This dredge material meets Ohio EPA's review for placement in the littoral drift, west of the project site.
- e. All dredged material which is to be placed at an upland site shall be disposed of in such a way that sediment runoff is controlled and minimized.
- f. All dredged material shall be placed at the placement site west of the facility, acceptable to Ohio Department of Natural Resource's Office of Coastal Management (refer to attached map).

O. Wildlife Protection

- 1. No in-water work shall take place during the environmental window of April 15 to June 30, unless specifically approved by the Ohio Department of Natural Resources, Division of Wildlife, in writing, with a copy provided to Ohio EPA prior to undertaking any in-water work during the environmental window.
- 2. 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

Mitigation shall be using the dredged material as beach nourishment by placing the material at the pre-approved placement area acceptable to Ohio Department of Natural Resource's Office of Coastal Management Management (refer to attached map).

B. Timing of Mitigation Requirements

Mitigation for this project is placement of the material into the littoral drift west of the project site, which is an intrinsic part of the actual project. No specific timing is required for completing the mitigation, other than compliance with this 401 Water Quality Certification.

C. Monitoring Criteria

There are no monitoring requirements associated with this 401. The one-time placement of sand into the littoral drift is the sole mitigation component.

D. Performance Goals

There are no performance goals associated with this 401. The one-time placement of sand into the littoral drift is the sole mitigation component.

E. Contingency Plans

Mitigation for this project is placement of the material into the littoral drift west of the project site, which is an intrinsic part of the actual project. The Contingency Plan for this project is a modification to this 401 Water Quality Certification.

PART IV NOTIFICATIONS TO OHIO EPA

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

Certification Holder Name: NRG Power Midwest LP
Project Name: NRG Power/Dredging
Ohio EPA ID No.: 144377

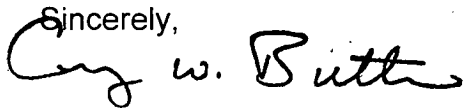
and shall be sent to:

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,



Craig W. Butler
Director

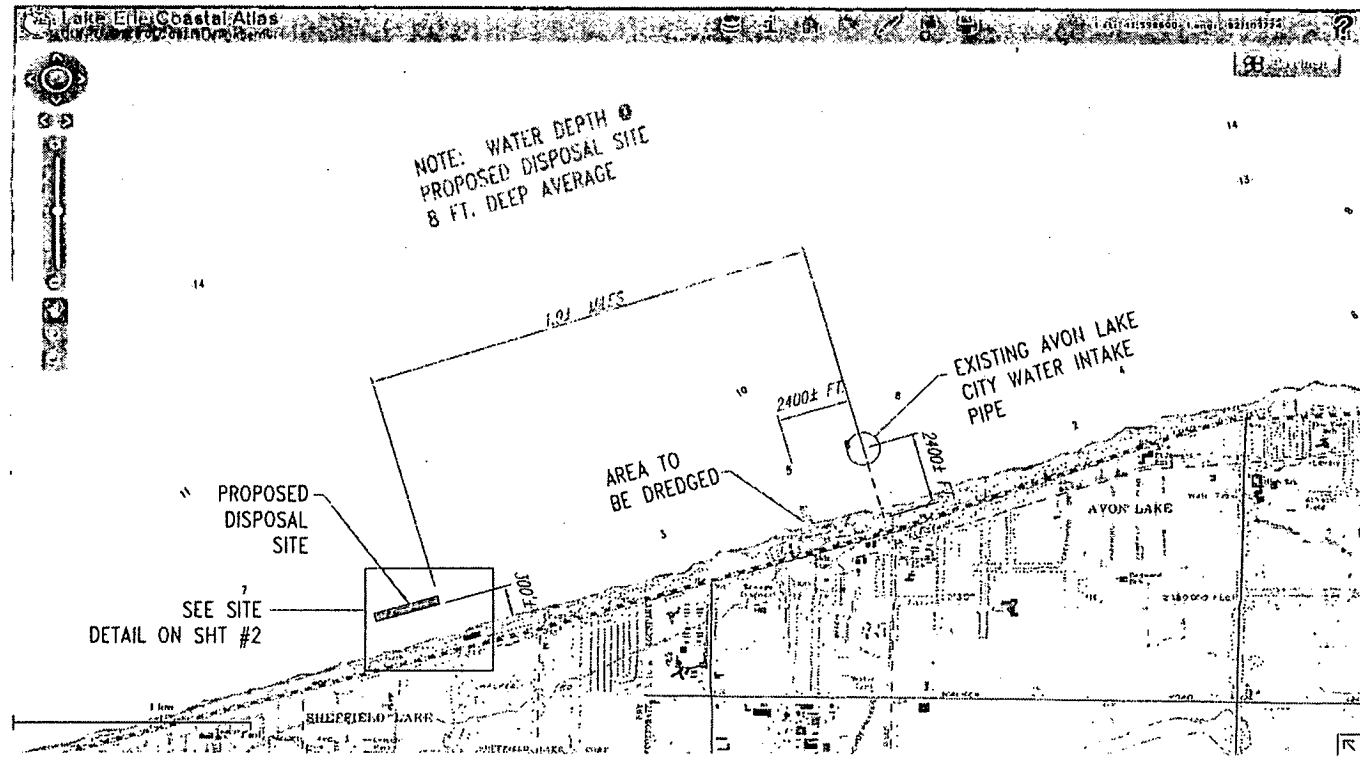
cc: Joe Krawczyk, Department of the Army, Buffalo District, Corps of Engineers
Peter Swenson, U.S. EPA, Region 5
Mary Knapp, U.S. Fish & Wildlife Service
John Kessler, ODNR, Office of Real Estate
Dave Snyder, Ohio Historical Preservation Office
Joe Loucek, Ohio EPA-NEDO, DSW, Section 401/IWP
Jeff DeShon, Ohio EPA, DSW, EAS
Megan Wolf, Ohio EPA, DSW, Mitigation Coordinator
Michael Donohue, R.T. Patterson Co., Inc.

Attachments: Site Location Map (project)
Site Location Map (mitigation)

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>.

PROPOSED NEARSHORE SEDIMENT DISPOSAL SITE:

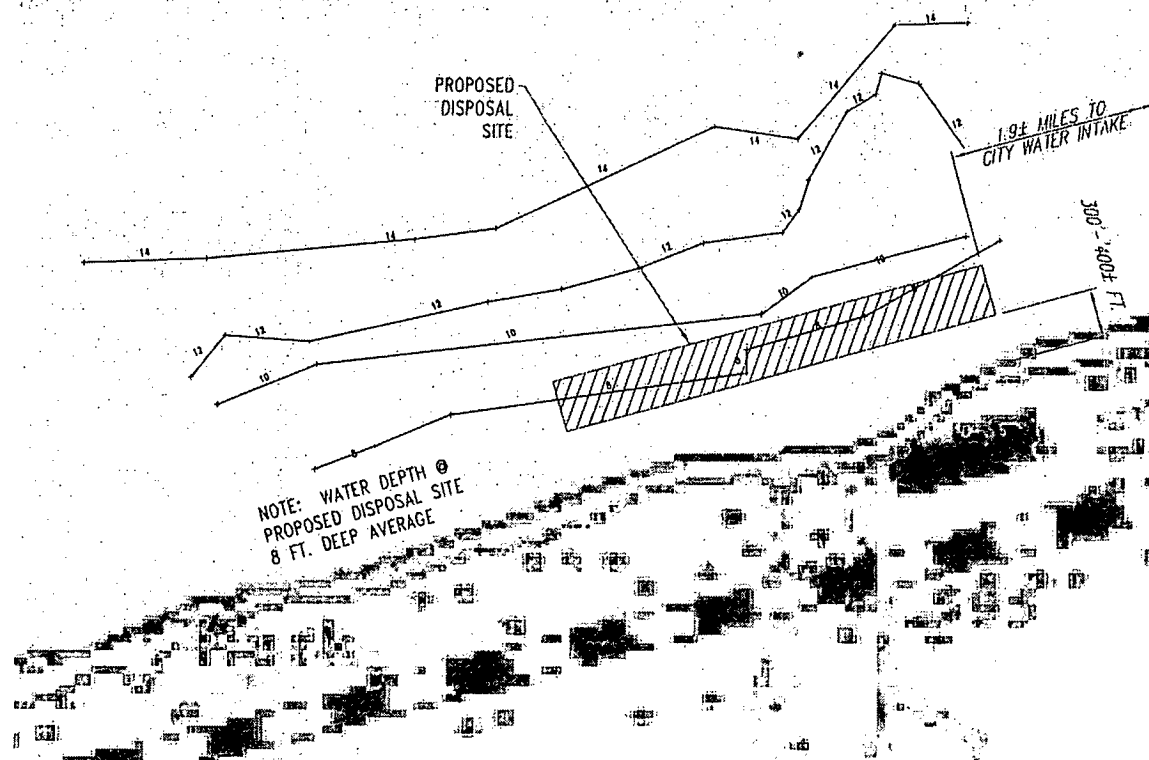
REV. 7-25-2014



NRG Power Midwest LP
Avon Lake Generating Station
Department of Army Application No. 2000-00838
SHEET #1

PROPOSED NEARSHORE SEDIMENT DISPOSAL SITE:
ENLARGED PLAN VIEW
SHOWING WATER DEPTHS

REV. 7-25-2014



NRG Power Midwest LP
Avon Lake Generating Station
Department of Army Application No. 2000-00838
SHEET #2

