BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY

- - -

IN RE:

American Energy Corporation, Century Mine Bennoc Area
Course Refuse Disposal Site Area

- - -

Public hearing before Amber Finkelstein, Hearing Officer, taken at the Beallsville Church of Christ Fellowship Hall, 52125 Township Road 134, Beallsville, Ohio at 6:00 p.m. on Tuesday, August 14, 2012.

- - -

P-R-O-C-E-E-D-I-N-G-S

- - -

MS. FINKELSTEIN: The purpose of this public hearing is to accept comments on the official record regarding the application from the American Energy Corporation to discharge treated runoff and drainage from a new coarse refuse disposal area at the company's Century Mine located at 43521 Mayhugh Hill Road. Runoff from the new disposal area and an existing disposal site would receive chemical treatment and be sent to two existing settling ponds. If approved, the permit would allow the company to discharge treated runoff and drainage from the ponds.

Unlike fine coal refuse and water, also known as coal slurry, stored in impoundments, coarse refuse is dewatered at the coal preparation plant and landfilled. Permits to construct and operate coarse refuse disposal sites in Ohio are reviewed and approved by the Ohio Department of Natural Resources.

The project may result in a change from the current water quality conditions of two small tributaries to Piney Creek, Piney Creek and the Captina Creek watershed, but cannot violate Ohio's water quality standards. Ohio EPA will consider the

technical, economic, social and environmental aspects of the project before deciding to issue or deny the permit.

Ohio EPA published a public notice to announce the hearing and public comment period regarding the project in newspapers in the area. This notice was issued in Ohio EPA's Weekly Review, which is a publication that lists, by county, all Agency activities and actions taking place in the State of Ohio.

Written and oral comments received as part of the official record are reviewed by Ohio EPA prior to a final action of the Director. To be included in the official record, written comments must be received by Ohio EPA by the close of business on August 21, 2012. Comments received after this date may be considered as time and circumstances permit, but will not be part of the official record for this hearing.

Written comments can be filed with me tonight or submitted to: Ohio EPA - Division of Surface Water, Attention: Permits Processing Unit, PO Box 1049, Columbus, Ohio 43216-1049. Also, this address can be found on the agenda for this hearing.

It is important for you to know that all comments received in writing at the agency, all written comments given to me tonight, and all verbal comments given here tonight are given the same consideration.

I ask that all exhibits, including written speeches, maps, photographs, overheads and any other physical evidence referred to in your testimony, be submitted to me tonight as part of the official record. If you choose not to submit the information, Ohio EPA cannot ensure the accuracy of your testimony. A court reporter is here to make a stenographic record of tonight's proceedings.

Questions and comments made at the public hearing will be responded to in a document known as a responsiveness summary. The Director, after taking into consideration the recommendations of the program staff and comments presented by the public, may issue or deny the permit. Once a final decision is made by the Director, the final permit decision, along with the responsiveness summary, will be communicated to the applicant, all persons who have submitted comments, and all persons who present testimony at tonight's hearing.

Final actions of the Director are appealable to the Environmental Review Appeals Commission, also known as ERAC. The board is separate from Ohio EPA and reviews cases in accordance with Ohio's environmental law and rules. Any ERAC decision is appealable to the Franklin County Court of Appeals. Any order of the Court of Appeals is appealable to the Supreme Court of Ohio.

If you wish to present testimony at this hearing tonight and have not already completed a blue card, please do so at this time and return it to me or an Ohio EPA representative. The cards are available at the registration table.

Each individual may testify only once and speak for five minutes. So I ask that you use your time wisely and that you are respectful of others providing their comments and questions. There is no cross-examination of the speaker or Ohio EPA representatives in public hearings of this type. Ohio EPA's public hearings afford citizens an opportunity to provide input. Therefore, we will not be able to answer questions during this hearing. The hearing officer or an Ohio EPA representative may ask clarifying questions of speakers to ensure the record

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is as complete and accurate as possible.
If you have a question, please phrase your comments in the form of a question and the agency will address your concerns in writing within the responsiveness summary.
We will now receive testimony. As I call your name, please step up to the microphone, state your name, spell it for the record and proceed with your testimony.
There are no interested parties requesting to give testimony.
Since there are no requests to present testimony, we will end the hearing. Remember, written comments will be accepted through the close of business on August 21, 2012. Again, these can be sent to Ohio EPA - Division of Surface Water, Attention: Permits Processing Unit, PO Box 1049, Columbus, Ohio 43216-1049.
This concludes today's hearing. Thank you for your cooperation and participation in Ohio EPA's decision-making process. The time is now 6:30 and this hearing is adjourned.
- - -
Thereupon, at 6:30 p.m. on August 14,

Page 7

2012, the public hearing was adjourned.
- - -

1 C E R T I F I C A T E

2 - - -

3 STATE OF OHIO :
SS:
4 COUNTY OF MADISON :

5 I, Denise L. Shoemaker, a Notary Public
6 in the State of Ohio, do hereby certify that the
7 foregoing is a true, correct and complete transcript
8 of the proceedings in the matter before the Ohio EPA
9 as reported by me in stenotype and transcribed from my
10 stenographic notes.

11 DATED this 27th day of August, 2012.

12

13

14 u

15 _____
Denise L. Shoemaker
16 Notary Public - State of Ohio

17 - - -

18 My Commission Expires: January 27, 2014

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PN mailed 10/25/12

Ohio | Environmental Protection Agency

Public Interest Center

SIGN-IN SHEET

Subject: American Energy Corporation Century Mine
Bennoc Area Coarse Refuse Disposal Site
County: Belmont **Date: August 14, 2012**

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CITY: Alledonia STATE: OH ZIP: 43902
TELEPHONE: (740) 926-1351 FAX: –

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CITY: Beallsville Ohio 43716-9314 STATE: ZIP:
TELEPHONE: (740 926 1747 FAX:

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STREET ADDRESS:
CITY: STATE: ZIP:
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16 Denise L. Shoemaker
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18 My Commission Expires: January 27, 2014

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Newspapers, Inc., A Corporation, publisher of the Times Leader a newspaper published in Martins Ferry, Belmont County, Ohio, each day of the week and of general circulation in said city and county; that it is a newspaper meeting the requirements of sections 7.12 and 5721.01 Ohio Revised Code as amended effective September 24, 1957; that affiant has custody of the records and files of said newspaper; and that the advertisement of which the annexed is a true copy, was published in said newspaper on each of the days in the month and year stated, as follows:

July 17

2012

Candace S Criswell

Subscribed by Affiant and sworn to before me, this 17th day of July, A.D. 2012.

Rebecca L Anderson
Notary Public

NOTARIAL SEAL STATE OF OHIO

REBECCA L ANDERSON
Notary Public
In and for the State of Ohio
My Commission Expires
November 25, 2016

Printer's Fee $ 274.80
Notary's Fee $

The Times Leader
Martins Ferry, Ohio

P.O. Box 1049, Columbus, Ohio 43216. Ph: 614-644-2129 email:HClerk@epa.state.oh.us

FINAL ISSUANCE OF FINDINGS AND ORDERS UNDER ORC CHAP 6111

AMERICAN ENERGY CORPORATION
43521 Mayhugh Hill Rd
Beallsville, OH 43716
Action Date: 07/05/2012
Receiving Waters: Piney Crk to Trib of Captina Crk
Facility Description: Wastewater
Identification No.: AEC
This final action was not preceded by a proposed action and is appealable to ERAC. Persons wishing to be on Ohio EPA's interested parties mailing list for this project must submit a request in writing to Ohio EPA, Division of Materials and Waste Management, Attn: PRMU, P.O. Box 1049, Columbus, OH 43216-1049, tel: (614) 644-2621.

OHIO VALLEY COAL CO
6854 Pleasant Ridge Rd
Alledonia, OH 43902
Action Date: 07/05/2012
Receiving Waters: Perkins Run or Captina Crk
Facility Description: Wastewater
Identification No.: 0VC
This final action was not preceded by a proposed action and is appealable to ERAC. Persons wishing to be on Ohio EPA's interested parties mailing list for this project must submit a request in writing to Ohio EPA, Division of Materials and Waste Management, Attn: PRMU, P.O. Box 1049, Columbus, OH 43216-1049, tel: (614) 644-2621.

FINAL ISSUANCE OF PERMIT TO INSTALL

OHIO VALLEY COAL CO
64975 Plainfield Road
Richland Twp. OH
Action Date: 07/05/2012
Facility Description: Wastewater
Identification No.: 867974
This final action not preceded by proposed action and is appealable to ERAC. New 20,000 gpd package wastewater treatment plant to serve new offices and bathhouse for the mine entry facility to Ohio Valley Coal- McMahon Shaft

APPLICATION FOR ANTIDEGRADATION PROJECT

AMERICAN ENERGY CORPORATION
43521 Mayhugh Road
Bealsville-OH-43716
Action Date: 07/13/2012
Receiving Waters: Piney Creek
Facility Description: Wastewater
Requests to be on the mailing list must be made within 30 days.
Identification No.: 0IL00159
Antidegradation project as defined by OAC 3745-1-05; an exclusion or waiver is not applicable. Hearing Scheduled 8/14/12 at 6:00 pm, Beallsville Church of Christ Fellowship Hall, 52125 Twp Rd 134, Beallsville, OH

that regulators in some states have expressed the view that underground coal mines may need to apply for such permits as a result of US EPA's "GHG Tailoring Rule", which would require such applications to be submitted by July 1, 2012. Thus, although we do not believe that AEC is required to apply for a Title V permit for the Century Mine, we are submitting this application as a protective measure.

APPLICATION RECEIVED FOR AIR PERMIT

TIMBER WOLF TERMINALS LLC
310 N Main St
Martins Ferry OH
Action Date: 07/03/2012
Facility Description: Air
Identification No.: A0045058
Timber Wolf Terminals LLC (Timber Wolf) plans to construct a greenfield storage and distribution terminal in Martins Ferry, Ohio (Timber Wolf Terminaling Facility) intended to handle crude oil and condensate collected at natural gas production wells. With this Permit to Install and Operate (PTIO) application, Timber Wolf is requesting approval for the construction and operation of the Timber Wolf Terminaling Facility.

TL Adv. - 1 day - July 17

REVISED PUBLIC NOTICE
BELMONT

The following applications and/or verified complaints were received, and the following draft, proposed and final actions were issued, by the Ohio Environmental Protection Agency (Ohio EPA) last week. The complete public notice including additional instructions for submitting comments, requesting information or a public hearing, or filing an appeal may be obtained at: http://www.epa.ohio.gov/actions.aspx or Hearing Clerk, Ohio EPA, 50 W. Town St. P.O. Box 1049, Columbus, Ohio 43216. Ph: 614-644-2129 email: HClerk@epa.state.oh.us

APPLICATION FOR ANTIDEGRADATION PROJECT

AMERICAN ENERGY CORPORATION
43521 MAYHUGH ROAD
BEALSVILLE-OH-43716 OH ACTION DATE : 07/13/2012
RECEIVING WATERS: PINEY CREEK
FACILITY DESCRIPTION: WASTEWATER
REQUESTS TO BE ON THE MAILING LIST MUST BE MADE WITHIN 30 DAYS.
IDENTIFICATION NO. : 0IL00159
Antidegradation project as defined by OAC 3745-1-05 - an exclusion or waiver is not applicable. Hearing Scheduled 8/14/12 at 6:00 pm, Beallsville Church of Christ Fellowship Hall, 52125 Twp. Rd. 134, Beallsville, OH

OhioEPA State of Ohio Environmental Protection Agency

Fact Sheet

American Energy Corporation: Water Quality Standards and Antidegradation

July 3, 2012

What are water quality standards?

Water quality standards are state regulations or rules that protect lakes, rivers, streams and other surface water bodies from pollution. The rules are in Chapter 3745-1 of the Ohio Administrative Code (OAC). These rules contain: beneficial use designations such as warmwater aquatic life habitat, public water supply and primary contact recreation; numeric levels and narrative statements (water quality criteria) protective of the use designations; an antidegradation policy; and procedures for applying the water quality criteria to wastewater dischargers.

What is antidegradation?

Antidegradation refers to provisions that must be followed before authorizing any increased activity on a water body that may result in a lowering of water quality including an increase in the discharge of a regulated pollutant, or activities that may significantly alter the physical habitat. The antidegradation rule is required by the Clean Water Act and federal regulations. Antidegradation must be part of any state's water quality standards program. The antidegradation rule, along with water quality criteria and beneficial use designations, provides the overall structure of this water quality standards program. The antidegradation rule must protect the existing use of the water body, and only allow a lowering of water quality when it is necessary to support important social and economic development. Simply put, the antidegradation rule establishes a procedure to determine that a discharge is necessary before authorizing it.

The state's antidegradation rule establishes procedures and requirements to ensure that the concepts outlined by the federal regulations are met. These requirements include public participation activities, intergovernmental coordination, a determination of important social and economic development, an alternatives analysis and greater protection for exceptional quality streams.

Ohio has two antidegradation rules within its water quality standards to support this program. Ohio Administrative Code (OAC) 3745-1-05 outlines the overall requirements for all appropriate activities on all waters while OAC 3745-1-54 outlines additional provisions to be implemented when evaluating projects relating to impacts to wetlands.

What is an antidegradation review?

An antidegradation review is a procedure to ensure that Ohio EPA has considered all of the environmental, social and economic factors required by the Antidegradation rule before a decision is made to allow an activity to occur. The review includes public outreach efforts such as: (1) public notice of receipt of an application soliciting comments associated with the project, (2) potential public hearings if interest is present, and (3) public notification of a draft action. Ohio EPA will respond to or address all comments received before issuance of a final action (or draft action in the case of noticing an application). Ohio EPA will also contact or provide information to local government officials to solicit any comments they may have related to the proposed activity. Ohio EPA places a high priority on public involvement and encourages citizens and the regulated community to become involved in the decision-making processes.

Ohio EPA may also be required to do a detailed analysis of the project related to various environmental and economic issues (e.g. impacts to the local economy, water quality indicators, taxes). Again, the overall intent of the process is to determine if the requested lowering of water quality is necessary to support social and economic development in the area. Though social and economic factors can be widespread, the focus of the Ohio EPA review should be in relation to these factors related to the water quality changes and resource.

What is meant by "the project meets an exclusion"?

The term "the project meets an exclusion" relays information related to the magnitude and/or potential impact associated with a project proposal. If a project meets an exclusion, that project is anticipated to have minimal or a very low risk of any environmental impact associated with a discharge

Division of Surface Water, 50 West Town Street, Suite 700, Columbus, Ohio 43215-1049 (614) 644-2001

resulting from the project or approval of the application. The exclusions refer to the level of the requested discharge in relation to what the stream or receiving water can handle safely (e.g. application proposed to discharge at less then ten percent of what the stream can accept) or that an environmental benefit will result from the proposed activity (e.g. cleanup of contaminated ground water, providing sewage services to homes with unsanitary conditions, etc.).

The exclusions are outlined by the rules and Ohio EPA makes the determination if a project and/or application meets the appropriate conditions. If a project is determined to meet one of these exclusions, the application and review process is somewhat streamlined since a detailed analysis for environmental, human health and water resource protection is not warranted.

Will the WQS be lowered? What is the risk to the environment and public health? What is meant by a lowering of water quality?

Any project that is subject to the antidegradation rule will result in a "lowering of water quality" by definition. However, this does not mean that the utilization of that water body for recreational purposes, water consumption or other direct or indirect utilization will be harmed or that the aquatic life and fish communities present in that water body are impacted or harmed in any way. In simple terms, a "lowering of water quality" simply means that the existing instream conditions may be modified by the proposal–it will be a different environment within the water that will still be protective of all uses for that water body. Though there will be this "lowering of water quality," at no time will any discharge be able to exceed the values derived in Ohio water quality standards that were developed to protect all ultimate uses of a water body.

How can I learn more about the project under consideration?

All discharge or construction permit applications are initially submitted to the district office responsible for that geographic area. The district offices are responsible for coordinating the review and/or evaluation of these applications. Copies of all applications including detailed design drawings and any associated correspondence with the applicant can be viewed at the appropriate district office.

What is the antidegradation review schedule? How can I comment on this proposal?

Initially, once the application is received and notice issued there is a 30 day comment period from the date of this notice/fact sheet–this date is documented on this fact sheet. During this period, interested parties can request to be kept informed of the project by being placed on the mailing list for the project and may also request a hearing on the application or proposal if one has not already been scheduled. Such requests need to be forwarded to the Ohio EPA in writing. Once this initial comment period is over, a draft/proposed permit action may be taken recommending either approval or denial of the application. This then would have an additional comment period of at least 30 days before a final action can be taken on the application.

For More Information

To be placed on the interested parties mailing list, request a public hearing or request additional information relative to this project you should contact Ohio EPA in writing at:

Ohio EPA
Division of Surface Water
50 West. Town Street, Suite 700
P.O. Box 1049
Columbus, OH 43216-1049.

Also, additional information can be obtained by contacting the Division of Surface Water staff at the appropriate district office.

Ohio EPA District Offices

Ohio EPA-Southeast District Office
2195 Front Street
Logan, Ohio 43138
(740) 385-8501

Ohio EPA-Southwest District Office
401 East Fifth Street
Dayton, Ohio 45402-2911
(937) 285-6357

Ohio EPA–Northwest District Office
347 N. Dunbridge Road
Bowling Green, Ohio 43402
(419) 352-8461

Ohio EPA-Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087
(330) 963-1200

Ohio EPA-Central District Office
50 West Town Street, Suite 700
Columbus, Ohio 43215
(614) 728-3778

Project Specific Facts:
American Energy Corporation
Century Mine - Bennoc Area Coarse Refuse Disposal
(Date of Notice: July 13, 2012)

NAME AND ADDRESS OF APPLICANT: American Energy Corporation, 43521 Mayhugh Road, Beallsville, Ohio 43716.

PROJECT LOCATION: 43521 Mayhugh Road, Beallsville, Wayne Township, Belmont County, Ohio.

PERMITS UNDER CONSIDERATION: An NPDES permit application for discharges from the collection/disposal system serving mining complex.

RECEIVING WATER BODY AND CATEGORY: Piney Creek and subsequently Captina Creek. Piney Creek is categorized as a General High Quality Water and Captina Creek is categorized as a Superior High Quality Water.

EXCLUSION AND/OR WAIVER: A review of the application indicates that no exclusion and/or waiver are applicable or requested for the proposed project.

DESCRIPTION OF PROJECT: Discharges from a new coal coarse refuse disposal area.

PUBLIC HEARING: A public hearing is currently scheduled for this project to begin at 6:00 p.m. on Tuesday, August 14, 2012 at the Beallsville Church of Christ Fellowship Hall, 52125 Township Road 134, Beallsville, Ohio.

DISTRICT OFFICE OVERSEEING PROJECT REVIEW: Ohio Environmental Protection Agency–Southeast District Office.

L:\WP\Antideg fact sheets\SEDO\americanenergybennoc.wpd

Social/Economic Justification Report for the Lowering of Water Quality for Receiving Stream: Unnamed Trib. of Piney Creek and Captina Creek for the American Energy/Century Mine/Bennoc Refuse Disposal Area
Washington Twp., Belmont County
NPDES No. 0IL00159*AD
PTI: N/A
October 18, 2012

The application for an NPDES Permit was evaluated in accordance with the Antidegradation Rules 3745-1-05 OAC. The proposed activity will result in a lowering of water quality and the information submitted by the applicant in accordance with OAC 3745-1-05 (B)(2) (c) - (g) and other information and facts were evaluated. The following issues were considered in recommending issuance of the permit(s):

(a) THE MAGNITUDE OF THE PROPOSED LOWERING OF WATER QUALITY:

Runoff and drainage from the 40 acre coal refuse area should not lower the water quality to any noticeable extent. There may be some small increase of TDS, sulfate, chloride, iron and manganese concentrations in the tributaries and Captina Creek. Discharges will only occur as a result of a precipitation event (rainfall or snowmelt). Runoff will be treated using conventional AMD treatment at two ponds. To protect WQ in the small tributaties and Piney Creek, the permit will require that the ponds be operated in a "fill-controlled discharge" mode. A discharge event will normally only occur once a week and for only less than 48 hrs. This will minimize the exposure of aquatic life to the high TDS and sulfate. The permit does have provisions to allow for more frequent discharge events during extreme wet weather. The company will also minimize the area of exposed refuse which should further reduce the concentrations of TDS and sulfate in the discharges.

(b) THE ANTICIPATED IMPACT OF THE PROPOSED LOWERING OF WATER QUALITY ON AQUATIC LIFE AND WILDLIFE, INCLUDING THREATENED AND ENDANGERED SPECIES, IMPORTANT COMMERCIAL OR RECREATIONAL SPORT FISH SPECIES, OTHER INDIVIDUAL SPECIES AND THE OVERALL AQUATIC COMMUNITY STRUCTURE AND FUNCTION:

It is not expected that the discharges will have any noticeable negative impact to aquatic life and wildlife. The life of the refuse area is expected to only be for about a year. After that the refuse disposal area will be "reclaimed" and pollutant discharges should occur.

(c) THE ANTICIPATED IMPACT OF THE PROPOSED LOWERING OF WATER QUALITY ON HUMAN HEALTH AND THE OVERALL QUALITY AND VALUE OF THE WATER RESOURCE:

The discharges should have a very low if any impact to human health and the overall quality and value of the receiving streams.

(d) THE DEGREE TO WHICH WATER QUALITY MAY BE LOWERED IN WATERS LOCATED WITHIN NATIONAL, STATE OR LOCAL PARKS, PRESERVES OR WILDLIFE AREAS OR WATERS DESIGNATED OUTSTANDING HIGH QUALITY WATERS, OUTSTANDING NATIONAL RESOURCE WATERS, SUPERIOR HIGH QUALITY WATERS OR STATE RESOURCE WATERS:

The discharges will be to tributaries of Captina Creek which is classified as superior high quality waters. There should be minimal impact to Captina for the reasons explained above and no long term impacts after the refuse area has been fill and closed and reclaimed.

(j) THE AVAILABILITY, RELIABILITY AND COST EFFECTIVENESS OF ANY NON-DEGRADATION ALTERNATIVE, MINIMAL DEGRADATION ALTERNATIVE OR MITIGATIVE TECHNIQUE ALTERNATIVE:

See discussion in item h above.

(k) THE RELIABILITY OF THE PREFERRED ALTERNATIVE INCLUDING, BUT NOT LIMITED TO, THE POSSIBILITY OF RECURRING OPERATIONAL AND MAINTENANCE DIFFICULTIES THAT WOULD LEAD TO INCREASED DEGRADATION:

The preferred alternative for coal related wastewater (use of a treatment pond) is reliable. The sediment and any iron and manganese sludges collected in the pond will have to be periodically removed and disposed of in the refuse disposal area. Treatment ponds are standard treatment in the mining industry to treat contaminated runoff and drainage. Operating the ponds in a controlled discharge type of mode will help improve reliability since it will minimize short circuiting and should improve settling of solids during chemical treatment and minimize the re-suspension of settled solids during runoff periods when high rates of flow enter the pond.

(l) THE CONDITION OF THE LOCAL ECONOMY, THE NUMBER AND TYPES OF NEW DIRECT AND INDIRECT JOBS TO BE CREATED, STATE AND LOCAL TAX REVENUE TO BE GENERATED, AND OTHER ECONOMIC AND SOCIAL FACTORS AS THE DIRECTOR DEEMS APPROPRIATE

The Belmont County economy is depressed. AEC's Century Mine provides a significant benefit to local economy through payroll and taxes and purchase of equipment and supplies, etc. This expanded refuse area is needed to keep the mine operating until a larger refuse disposal area can be permitted.

(m) ANY OTHER INFORMATION THAT WAS CONSIDERED REGARDING THE PROPOSED ACTIVITIES AND THE AFFECTED WATER BODY:

No other information was considered.

Completed by: _____

Bruce E. Goff
October 18, 2012

Peterson, Katrina

From: Finkelstein, Amber
Sent: Thursday, June 28, 2012 4:03 PM
To: Peterson, Katrina; Strouse, Erin
Cc: McCarron, Mary
Subject: RE: AEC 2012 Bennoc Coarse Refuse Antideg PN

Success!

Beallsville Church of Christ Fellowship Hall
52125 Township Road 134, Beallsville

Tuesday, August 14, 6:00 p.m.

Amber Kent Finkelstein
Public Involvement Coordinator
(614) 728-0045

Pn date 7/19/12
Comments due by
8/20/12

From: Peterson, Katrina
Sent: Wednesday, June 13, 2012 5:09 PM
To: Finkelstein, Amber
Subject: AEC 2012 Bennoc Coarse Refuse Antideg PN

From: Peterson, Katrina
Sent: Wednesday, June 13, 2012 2:33 PM
To: Peelle, Darla
Subject: FW: AEC 2012 Bennoc Coarse Refuse Antideg PN

Amber, here is an antideg for public hearing. It is in Southeast District Office, Belmont County. Your contact will be me (4-2046) and Bruce Goff (4-5238). Please let me know when everything is set up. Trina Peterson

---

From: Goff, Bruce
Sent: Wednesday, June 13, 2012 10:11 AM
To: EPA DSW PermitsProcessing
Cc: Stump, Mark; Peterson, Katrina; Stevenson, Abbot
Subject: AEC 2012 Bennoc Coarse Refuse Antideg PN

Chris/Mark:

Please process attached. It appears Public Hearing may be necessary since Captina Cr. is < 2 miles downstream, but this is only a short duration discharge, i.e. about a year before the refuse disposal area is "filled" and reclaimed. Also discharges are wet weather related, i.e. will only discharge as a result of precipitation, so impact to Captina Creek should be very minimal. This should all be taken into consideration in deciding to schedule a public hearing.

Bruce

Peterson, Katrina

From: Peterson, Katrina
Sent: Wednesday, June 13, 2012 5:09 PM
To: Finkelstein, Amber
Subject: AEC 2012 Bennoc Coarse Refuse Antideg PN
Attachments: AEC Addendum.pdf; AEC 2012 Bennoc Coarse Refuse Antideg PN.doc

From: Peterson, Katrina
Sent: Wednesday, June 13, 2012 2:33 PM
To: Peelle, Darla
Subject: FW: AEC 2012 Bennoc Coarse Refuse Antideg PN

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Bruce

PN date 7/15/12
comments due 8/20/12

Peterson, Katrina

From: Stump, Mark
Sent: Wednesday, June 13, 2012 2:23 PM
To: Peterson, Katrina
Cc: Goff, Bruce; Stevenson, Abbot
Subject: RE: AEC 2012 Bennoc Coarse Refuse Antideg PN

I would say that we should hold a public hearing on the project ..... as indicated by the district, it is less than two miles and it is a controversial project or site ..... also, I need to note that there is a possible concern with the recommended discharge levels ..... the facility recommends discharging at a specific conductance of 4,239 mg/l ..... first, I do not think specific conductivity can be measured in mg/l ..... It is the measure of an electrical current ..... I am assuming that they are requesting a discharge of 4,239 micro-ohms/cm ..... The second concern is that Ohio's Water Quality Standard for total dissolved solids of 1500 mg/l was established to correlate to a specific conductance of 2400 micro-ohms/cm ..... this would indicate that the requested discharge would be in the range of 2500 mg/l of total dissolved solids ..... this should be looked at in more detail before a permit action is taken or authorized ..... however, to answer the immediate question ..... Yes, schedule a public hearing for the project .....

Mark

From: Peterson, Katrina
Sent: Wednesday, June 13, 2012 1:39 PM
To: Stump, Mark
Subject: FW: AEC 2012 Bennoc Coarse Refuse Antideg PN

Do I need to send this to PIC for hearing?

From: Goff, Bruce
Sent: Wednesday, June 13, 2012 10:11 AM
To: EPA DSW PermitsProcessing
Cc: Stump, Mark; Peterson, Katrina; Stevenson, Abbot
Subject: AEC 2012 Bennoc Coarse Refuse Antideg PN

Chris/Mark:

Please process attached. It appears Public Hearing may be necessary since Captina Cr. is < 2 miles downstream, but this is only a short duration discharge, i.e. about a year before the refuse disposal area is "filled" and reclaimed. Also discharges are wet weather related, i.e. will only discharge as a result of precipitation, so impact to Captina Creek should be very minimal. This should all be taken into consideration in deciding to schedule a public hearing.

Bruce

Public Notification Form
Receipt of Application for Antidegradation Project

District Contact: Abbot Stevenson/Bruce Goff Date: June 12, 2012

Name of Project: American Energy Corp. Century Mine Bennoc Area Coarse Refuse Disposal

Mailing Address: 43521 Mayhugh Rd
Bealsville, OH 43716

Location: same

Township and County where the project is located: Wayne Township, Belmont County

Type of permit application (check all that apply):

NPDES Permit No.: 0IL00159 AD

_____ Renewal
_____ Modification
_____ Initial (existing discharger)
__X__ Initial (new discharger)

PTI Permit No.: _____

_____ New source (no existing plant)
_____ Modification of exist. treatment (expansion)
Sewerage system (i.e., sewers, pump stations, etc.) in or near stream bed

Date complete Antidegradation application received (submit copy of addendum with form): 5/23/2012

Stream or water body affected and subsequent network (include river basin and indicate if subsequent stream is within two – five miles of discharge point):

Piney Creek, Captina Creek, Ohio River

Stream categorization (per the anti. rule, see page 2):

_____ Limited quality water
__X__ General high quality water
__x__ Superior high quality water
SHQ (Captina Cr. is < two miles downstream)

_____ Outstanding state water
_____ Outstanding national resource water
_____ Lake Erie

Stream use designation (per the WQS):

_____ LRW _____ MWH _____ CWH
__X__ WWH _____ EWH _____ SSH

Do any exclusions apply or did they request a waiver? _____ Yes __X__ No
Please specify which exclusion applies or waiver requested:

Any known controversy or public concerns with the project? Known interested parties? (Supply addresses if so). Please explain:

Yes. This facility is often of public concern.

Project Description:

Discharges from a new coal coarse refuse disposal area

Peterson, Katrina

From: Goff, Bruce
Sent: Wednesday, June 13, 2012 10:11 AM
To: EPA DSW PermitsProcessing
Cc: Stump, Mark; Peterson, Katrina; Stevenson, Abbot
Subject: AEC 2012 Bennoc Coarse Refuse Antideg PN
Attachments: AEC Addendum.pdf; AEC 2012 Bennoc Coarse Refuse Antideg PN.doc

Chris/Mark:

Please process attached. It appears Public Hearing may be necessary since Captina Cr. is < 2 miles downstream, but this is only a short duration discharge, i.e. about a year before the refuse disposal area is "filled" and reclaimed. Also discharges are wet weather related, i.e. will only discharge as a result of precipitation, so impact to Captina Creek should be very minimal. This should all be taken into consideration in deciding to schedule a public hearing.

Bruce

O.E.P.A.
S.E.D.U.
2012 MAY 23 AM 11:49

OhioEPA
State of Ohio Environmental Protection Agency

DIVISION OF SURFACE WATER

Antidegradation Addendum

In accordance with Ohio Administrative Code 3745-1-05 (Antidegradation), additional information may be required to complete your application for a permit to install or NPDES permit. For any application that may result in an increase in the level of pollutants being discharged (NPDES and/or PTI)or for which there might be activity taking place within a stream bed, the processing of the permit(s) may be required to go through procedures as outlined in the antidegradation rule. The rule outlines procedures for public notification and participation as well as procedures pertaining to the levels of review necessary. The levels of review necessary depend on the degradation being considered/requested. The rule also outlines exclusions from portions of the application and review requirements and waivers that the Director may grant as specified in Section 3745-1-05(D) of the rule. Please complete the following questions. The answers provided will allow the Ohio EPA to determine if additional information is needed. **All projects that require both an NPDES and PTI should submit both applications simultaneously to avoid going through the antidegradation process separately for each permit**.

A. **Applicant:** American Energy Corporation

Facility Owner: American Energy Corporation

Facility Location (city and county): 43521 Mayhugh Hill Road

Application or Plans Prepared By: Vaughn, Coast & Vaughn, Inc.

Project Name: Bennoc Area Coarse Coal Refuse Disposal

NPDES Permit Number (if applicable): NA

B. **Antidegradation Applicability**

Is the application for? (check as many as apply):

_____ Application with no direct surface water discharge (Projects that do not meet the applicability section of 3745-1-05(B)1, i.e., on-site disposal, extensions of sanitary sewers, spray irrigation, indirect discharger to POTW, etc.). (Complete Section E)

_____ Renewal NPDES application or PTI application with no requested increase in loading of currently permitted pollutants. (Complete Section E, Do not complete Sections C or D).

_____ PTI and NPDES application for a new wastewater treatment works that will discharge to a surface water. (Complete Sections C and E)

_____ An expansion/modification of an existing wastewater treatment works discharging to a surface water that will result in any of the following (PTI and NPDES):(Complete Sections C and E)

- addition of any pollutant not currently in the discharge, or
- an increase in mass or concentration of any pollutant currently in the discharge, or
- an increase in any current pollutant limitation in terms of mass or concentration.

Click to clear all entered information (on all 4 pages of this form) CLEAR

_____ PTI that involves placement of fill or installation of any portion of a sewerage system (i.e., sanitary sewers, pump stations, WWTP, etc.) within 150 feet of a stream bed. Please provide information requested on the stream evaluation addendum (i.e., number of stream crossings, fill placement, etc.) and complete Section E.

_____ Initial NPDES permit for an existing treatment works with a wastewater discharge prior to October 1, 1996. (Complete Sections D and E)

_X_ Renewal NPDES permit or modification to an effective NPDES permit that will result in any of the following: (Complete Sections C and E)

- a new permit limitation for a pollutant that previously had no limitation, or
- an increase in any mass or concentration limitation of any pollutant that currently has a limitation.

C. Antidegradation Information

1. Does the PTI and/or NPDES permit application meet an exclusion as outlined by OAC 3745-1-05(D)(1) of the Antidegradation rule?

   _____ Yes (Complete Question C.2)

   _X_ No (Complete Questions C.3 and C.4)

2. For projects that would be eligible for exclusions provide the following information:

   a. Provide justification for the exclusion.

   b. Identify the substances to be discharged, including the amount of regulated pollutants to be discharged in terms of mass and concentration.

   c. A description of any construction work, fill or other structures to occur or be placed in or near a stream bed.

3. Are you requesting a waiver as outlined by OAC 3745-1-05(D)(2-7) of the Antidegradation rule?

   _X_ No

   _____ Yes

   If you wish to pursue one of the waivers, please identify the waiver and submit the necessary information to support the request. Depending on the waiver requested, the information required under question C.4 may be required to complete the application.

4. For all projects that do <u>not</u> qualify for an exclusion a report must accompany this application evaluating the preferred design alternative, non-degradation alternatives, minimal degradation alternatives, and mitigative techniques/measures for the design and operation of the activity. The information outlined below should be addressed in this report. If a waiver is requested, this section is still required.

   a. Describe the availability, cost effectiveness and technical feasibility of connecting to existing central or regional sewage collection and treatment facilities, including long range plans for

sewer service outlined in state or local water quality management planning documents and applicable facility planning documents.

b. List and describe all government and/or privately sponsored conservation projects that may have been or will be specifically targeted to improve water quality or enhance recreational opportunities on the affected water resource.

c. Provide a brief description below of all treatment/disposal alternatives evaluated for this application and their respective operational and maintenance needs. (If additional space is needed please attach additional sheets to the end of this addendum).

Preferred design alternative:

See Attached.

Non-degradation alternative(s):

See Attached.

Minimal degradation alternative(s):

See Attached.

Mitigative technique/measure(s):

See Attached.

At a minimum, the following information must be included in the report for each alternative evaluated.

d. Outline of the treatment/disposal system evaluated, including the costs associated with the equipment, installation, and continued operation and maintenance.

e. Identify the substances to be discharged, including the amount of regulated pollutants to be discharged in terms of mass and concentration.

f. Describe the reliability of the treatment/disposal system, including but not limited to the possibility of recurring operation and maintenance difficulties that would lead to increased degradation.

g. Describe any impacts to human health and the overall quality and value of the water resource.

h. Describe and provide an estimate of the important social and economic benefits to be realized through this proposed project. Include the number and types of jobs created and tax revenues generated.

i. Describe environmental benefits to be realized through this proposed project.

j. Describe and provide an estimate of the social and economic benefits that may be lost as a result of this project. Include the impacts on commercial and recreational use of the water resource.

k. Describe the environmental benefits lost as a result of this project. Include the impact on the aquatic life, wildlife, threatened or endangered species.

l. A description of any construction work, fill or other structures to occur or be placed in or near a stream bed.

m. Provide any other information that may be useful in evaluating this application.

D. **Discharge Information**

1. For treatment/disposal systems constructed pursuant to a previously issued Ohio EPA PTI, provide the following information:

PTI Number _____
PTI Issuance Date _____
Initial Date of Discharge _____

2. Has the appropriate NPDES permit application form been submitted including representative effluent data?

_____ Yes (go to E)

_____ No (see below)

If no, submit the information as applicable under **a OR b** as follows:

a. For entities discharging process wastewater attach a completed 2C form.

b. For entities discharging wastewater of domestic origin attach the results of at least one chemical analysis of the wastestream for all pollutants for which authorization to discharge is being requested and a measurement of the daily volume (gallons per day) of wastewaters being discharged.

E. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information is, to the best of my knowledge and belief, true, accurate and complete.

This section must be signed by the same responsible person who signed the accompanying permit application or certification as per 40 CFR 122.22.

Signature _____ TREASURER

Date 5/21/12

American Energy Corporation
Century Mine
Bennoc Area Coarse Coal Refuse Disposal
Antidegradation Addendum Attachment
Application for Individual NPDES Application for Discharge for Ponds 001 and 002
May 17, 2012

Background

Ponds 001 and 002 receive runoff from tributary areas that are currently not receiving coarse coal refuse. The outfalls from these ponds are currently under a General Construction Permit OGM00449*BG. This application proposes to move coverage of these outfalls to an individual NPDES Permit. The reason for this change is that AEC has applied to the ODNR for a change in permit coverage allowing for the disposal of coarse coal refuse in areas tributary to these outfalls.

Summary

A anti-degradation assessment of the impact of the discharges of Ponds 001 and 002 on the water quality of Piney Creek was completed (*Hydro-Chemical Analysis of Waste Water Discharge and Anti-Degradation Assessment: American Energy Corporation's Bennoc Coarse Coal Refuse Area Ponds 001 and 002, William J. Walker, PhD, Sovereign Consulting, Inc., May 11, 2012*). Currently, there is no coarse coal refuse being disposed in the drainage area tributary to these ponds. Representative water quality data was obtained from in pond sampling locations within Pond 013 on the property, which currently receives runoff from coarse coal refuse. This data along with Piney Creek stream flows and water quality data were used in the Ohio EPA's Waste Load Allocation model to determine the expected maximum concentrations of specific constituents in the pond discharges that will not exceed allowable water quality standards. Based on the analysis of the discharges of Ponds 001 and 002, it was determined that degradation of Piney Creek will not occur. The Preferred Alternative for discharge of water from Ponds 001 and 002 is to enlarge the ponds and to continue to manage the ponds to allow settling, aeration, and other geochemical reactions to occur; to increase retention time to further optimize settling and the various reactions in the ponds by installing pond partitions; and to adjust the pH if needed.

The underlying concept used in the Ohio EPA's Waste Load Allocation model for mixing of each pond's discharge with the receiving water should be discussed further. The concept makes sense for industrial processes that discharge continuously regardless of ambient meteoric conditions; however, it does not make sense for situations where discharging water body flows and receiving water body flows are both dependent on the same environmental conditions. For example, the 7Q10 stream flow is used to be protective of aquatic life when discharge occurs during low flow. However, the Bennoc ponds will also be low during the Piney Creek low flow conditions because it receives water exclusively from runoff, much like the receiving water body. Therefore, it will not discharge during these very sensitive low flow conditions. Currently, there is no mechanism in which these observations are accounted for in the permit process.

Additionally, the model currently uses a default value of 20% for the volume of receiving water available for mixing. Because the ratio of 7Q10 low flow to pond effluent average design flow is relatively low (about 3), it is reasonable to assume that a higher percentage of stream mixing volume could be used in the model calculations. Based on this assumption, it is expected that the allowable levels for pond discharge could increase as well.

Therefore, based on this observation and each pond's intermittent discharge characteristic due to runoff, further discussion about appropriate mixing values is warranted and necessary.

C.4.a. Describe the availability, cost effectiveness and technical feasibility of connecting to existing central or regional sewage collection and treatment facilities, including long range plans for sewer services outlined in state or local water quality management planning documents and applicable facility planning documents.

Not applicable.

C.4.b. List and describe all government and/or privately sponsored conservation projects that may have been or will be specifically targeted to improve water quality or enhance recreational opportunities on the affected water resource.

There are no known conservation projects to improve water quality in the streams affected by these outfalls.

C.4.c. Provide a brief description below of all treatment/disposal alternatives evaluated for this application and their respective operational and maintenance needs.

1. Preferred design alternative: Enlarged ponds with pond partitions for maximizing retention time and in-pond geochemical metals reductions followed by separate direct discharges to Piney Creek.

2. Non-degradation alternative: No alternative is recommended because the Preferred Design Alternative does not degrade Piney Creek.

3. Minimal degradation alternative: No alternative is recommended because the Preferred Design Alternative does not degrade Piney Creek.

4. Mitigative technique/measures: As coal refuse is being disposed in the areas which drain to these ponds, ODNR land management requirements would be employed as much as possible. These requirements include but are limited to maintaining the spoil materials by proper grading, ditching, soil covering, and revegetation as soon as practical to reduce runoff from coal refuse to the ponds.

C.4. Preferred Design Alternative:
Enlarged ponds with pond partitions for maximizing detention time and in-pond geochemical metals reductions followed by separate direct discharges to Piney Creek.

C.4.d. Outline of the treatment/disposal system evaluated, including the costs associated with the equipment, installation, and continued operation and maintenance.

For the preferred design alternative, the ponds would be enlarged and pond partitions would be installed in the two ponds to maximize retention time through the pond to allow aeration to occur and to maximize in-pond geochemical metals reductions to occur. The discharge would continue as it currently does with the pond effluent passing in an open ditch to Piney Creek. The ponds will discharge due to precipitation events generating runoff to the ponds. The partitions would be hanging curtain type similar to those used in sewage lagoons, supported by cables. In addition to partitions, a flow based chemical introduction system would be installed at the inlet of each pond to regulate chemical addition based on inlet flow. This system will continually receive a portion of inlet flow which then distributes a regulated quantity of

chemical to the pond(s) based on intensity of inlet flow. This system is used as an environmental control to regulate water quality throughout dry conditions and precipitation events. The enlargement of the ponds, installation of partitions, and treatment systems cost are estimated to be $369,000.

When the Individual NPDES permit is issued for the pond outfalls, it is expected that sampling and reporting activity will increase compared to the previous Construction General Permit that is currently in place. The staffing is expected to remain the same; however, the manhours and outsourced laboratory expenses necessary to comply with the reporting aspects of the new permit tables will increase.

C.4.e. Identify the substances to be discharged, including the amount of regulated pollutants to be discharged in terms of mass and concentration.

	Pond 001	Pond 002
Flow	40,000 gpd	25,000 gpd
pH	7.9	7.9
Specific Conductance	4,239 mg/L	4,239 mg/L
TSS	11	11 mg/L
Fe	0.479 mg/L	0.479 mg/L
Mn	0.377 mg/L	0.377 mg/L

C.4.f. Describe the reliability of the treatment/disposal system, including but not limited to the possibility of recurring operation and maintenance difficulties that would lead to increased degradation.

This alternative employs no discharge controls and it will discharge similar to what it currently does. The current arrangement is very reliable and does not require significant amounts of operation and maintenance. Each pond needs to be checked for siltation to ensure it does not lose its effectiveness as a settling pond. The partition cabling and partitions need to be inspected annually to ensure their structural integrity.

C.4.g. Describe any impacts to human health and the overall quality and value of the water resource.

There are no known impacts to human health from the continued discharge of runoff water from these ponds.

Piney Creek receives the pond discharges and discharges to the main stream, Captina Creek, which has maintained as an exceptional quality stream.

C.4.h. Describe and provide an estimate of the important social and economic benefits to be realized through this proposed project. Include the number and types of jobs created and tax revenues generated.

This permit will allow discharges to occur from Ponds 001 and 002 that will be receiving runoff from coarse coal refuse generated from the construction of a second slope, longwall and preparation plant at the Century Mine. This second mine operation will create an increase in the number of both surface and underground jobs at the Century Mine. In 2011, the total number of employees at this mine included 227 salaried employees and 458 hourly employees for a total of 685 employees. The 2011 payroll generated was $53,600,000 with an associated $3,500,000 in Ohio state taxes paid and $13,500,000 in Federal taxes

paid. Projected capital improvements in 2012 for the second slope, longwall, and preparation plant construction will approach $113,000,000. It is estimated that the mine operation will grow with a peak payroll of $73,000,000 in 2015. Additionally, AEC alone purchased some $94,885,000 in supplies in 2011 to support mining operations. The local economy benefits significantly from the operation of this mine through direct jobs generated and through indirect jobs created/sustained by businesses serving this industry.

C.4.i. Describe environmental benefits to be realized through this proposed project.

Runoff from the mine will be controlled and discharged in an improved quality versus no controls in place.

C.4.j. Describe and provide an estimate of the social and economic benefits that may be lost as a result of this project. Include the impacts on commercial and recreational use of the water resource.

There will be no social and economic benefits lost from this project. If the project does not proceed forward, there will be a significant loss of social and economic benefits to the local economy from the mining jobs being eliminated.

There will be no detrimental impact on commercial and recreational use of the streams impacted by the two pond outfalls. The streams have been receiving discharges from these ponds for many years and are acclimated to the water quality of these discharges. Captina Creek is an exceptional quality stream and maintains that reputation.

C.4.k. Describe the environmental benefits lost as a result of this project. Include the impact on the aquatic life, wildlife, threatened or endangered species.

No change in overall water quality in Piney Creek and Captina Creek from the pond discharges is anticipated. Wildlife in general has continued to flourish in rural areas such as this area in present times. There are no known environmental benefits lost from the proposed project.

C.4.l. A description of any construction work, fill or other structures to occur or be placed in or near a stream bed.

No facilities are proposed to be placed in a waterway.

C.4.m. Provide any other information that may be useful in evaluating this application.

No additional information is presented.

C.4. Non-Degradation Alternative:

No non-degradation alternative is recommended because the Preferred Design Alternative does not degrade Piney Creek.

C.4. Minimal Degradation Alternative:

No minimal degradation alternative is recommended because the Preferred Design Alternative does not degrade Piney Creek.