

# SPECIAL PROVISIONS

## 401 WATER QUALITY CERTIFICATION – WATERWAY PERMITS

CRS: LUC-75-4.52

PID: 81567/77255

- 401 WATER QUALITY  
CERTIFICATION FROM THE OHIO  
EPA (PERMIT NO. 073225;  
EFFECTIVE 02/07/2008, EXPIRES  
ON 02/06/2013)



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center  
50 W. Town St., Suite 700  
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184  
www.epa.state.oh.us

OHIO E.P.A.

MAILING ADDRESS:

FEB - 7 2008

P.O. Box 1049  
Columbus, OH 43216-1049

ENTERED DIRECTOR'S JOURNAL

**Certified Mail**

February 7, 2008

Ohio Department of Transportation  
Mr. James G. Beasley, P.E., P.S., Director  
1980 West Broad Street  
Columbus, Ohio 43223

I certify this to be a true and accurate copy of the  
official documents as filed in the records of the Ohio  
Environmental Protection Agency.

By: [Signature] Date: 2-7-08

c/o Timothy M. Hill, Administrator, Office of Environmental Services

Re: Lucas County  
Grant of Section 401 Water Quality Certification  
Project: (Preferred Alternative) Improvements to the I-75/I-45 Interchange  
ACOE Public Notice No. 2007-00133-OTT  
Ohio EPA ID No. 073225  
ODOT ID Code: LUC-75-4.52; PID 81567/77255

Ladies and Gentlemen:

The Director of Ohio Environmental Protection Agency hereby authorizes the above referenced project under the following authority.

Section 401 Water Quality Certification

Pursuant to Section 401 of the Federal Water Pollution Control Act, Public Law 95-217, the Director of Ohio Environmental Protection Agency hereby certifies 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 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 the Ottawa-Stony Watershed (HUC 04100001) as authorized by this certification is necessary. I have made this determination based upon the consideration of all public comments, and including the technical, social, and economic considerations concerning this application and its impact on waters of the state.

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korteski, Director

I. On-Site Water Resources and Impacts

A. Jurisdictional Wetlands

TABLE - 1									
Wetland ID	Wetland Location		ORAM Score*	Cat	Wetland Type F, NF <sup>2</sup> , PEM <sup>3</sup> , PSS <sup>4</sup> , PFO <sup>5</sup>	Total Size (acres)	Total Size Impacted (acres)	Impact Type	% Avoided
	Lat	Long							
Wetland A	41°40'31"	83°34'39"	37.0	Mod. 2	PEM	0.07	0.07	Fill	28.571
Wetland B	41°40'31"	83°34'39"	38.5	Mod. 2	PEM	0.46	0.12	Fill	80.43
<b>TOTAL</b>						<b>0.53</b>	<b>0.19</b>		

\* As provided by applicant, <sup>1</sup> Palustrine Shrub-Shrub  
<sup>2</sup> Non-Forest, <sup>3</sup> Palustrine Emergent Marsh  
<sup>4</sup> Forest, <sup>5</sup> Palustrine Forested

B. Jurisdictional Streams

Stream ID	Stream Location USGS (Coordinate)		QHE/HHEI Score	Use Designation	Impact Length (ft)	Impact Type
	Lat	Long				
Ottawa River	41°40'31"	83°34'39"	35 (average)	WWH	990	Pier/causeway
<b>TOTALS</b>					<b>990</b>	

\* As provided by applicant

II. General Conditions

- A. All water resources and their buffers which are to be avoided shall be clearly indicated on site drawings and demarcated in the field with suitable materials, prior to site disturbance. These materials shall remain in place and be maintained throughout the construction process. The water resources also shall be protected with suitable materials, including silt

fencing if appropriate, prior to site disturbance. These materials shall remain in place and be maintained throughout the construction process.

- B. Best Management Practices (BMPs) must be employed throughout the course of this project to avoid the creation of unnecessary turbidity which may degrade water quality or adversely affect aquatic life outside of the project area.
- C. Work shall only take place during low water conditions in order to minimize adverse impacts to water quality away from the project site.
- D. Temporary fill shall consist of suitable non-erodible material or shall be stabilized to prevent erosion.
- E. Materials used in this project 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 bank protection.
- F. BMPs shall be taken during construction to minimize erosion.
- G. BMPs shall be taken upon completion of this project, to ensure bank stability. This may include, but is not limited to, bank seeding.
- H. Procedures shall be developed and implemented to eliminate the possibility of spills and to control dust that may enter the waterway by runoff or point discharge.
- I. Unpermitted impacts to surface water resources and/or their buffers occurring as a result of this project will be reported within 24 hours of occurrence to Ohio EPA for further evaluation.
- J. In temporary impact areas where trees have been removed to facilitate construction, they shall be replaced with appropriate native tree species.
- L. Permittee shall be in compliance with the NPDES General Construction Permit for all phases of this project.
- M. Other permits may be required by Ohio EPA. For information concerning application procedures, contact the Ohio EPA District Office at the following address:

Northwest District office  
347 North Dunbridge Road  
Bowling Green, Ohio 43402

- N. Representatives from the Ohio EPA, Division of Surface Water will be allowed to inspect the authorized activity at any time deemed necessary to insure that it is being or has been accomplished in accordance with the terms and conditions of this water quality certification.
- O. In order to protect the Indiana bat from impacts from this development, the applicant shall not cut bat habitat trees between April 15<sup>th</sup> and September 15<sup>th</sup>.
- P. The bottom elevations shall be restored as nearly as possible to pre-project conditions.
- Q. The stream culvert shall be designed to allow natural movement of bedload to form a stable bed inside the culvert. For details on design requirements refer to Design of Road Culverts for Fish Passage by the Washington Department of Fish and Wildlife 2003 ([http://wdfw.wa.gov/hab/engineer/cm/culvert\\_manual\\_final.pdf](http://wdfw.wa.gov/hab/engineer/cm/culvert_manual_final.pdf)).
- R. Blasting will not be done within or near stream channels 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 fish and other aquatic life.
- S. Cadmium chromium arsenate (CCA) and creosote treated lumber shall not be used in structures in contact with waters of the state.
- T. This project may affect the drinking water wells for the adjoining City/Village. Precautions must be taken to limit any affect on the water supply. Officials at the City/Village should be notified before beginning the project and activities shall be coordinated with them.
- U. If pesticide application(s) are proposed for the control of invasive plant species, a site specific application permit must be obtained by calling 614-644-2001 and speaking with the Toxicology Specialist.

### **III. MITIGATION**

#### **A. Description of Required Wetland Mitigation**

The Permittee shall compensate for the 0.19 acres of impacts to jurisdictional wetlands by obtaining 0.38 wetland mitigation credits from the Blue Heron Reserve (Wetland) Mitigation site in Sandusky County, Ohio.

#### **B. Timing of Required Wetland Mitigation**

The Permittee shall provide Ohio EPA with an updated balance sheet showing it has deducted 0.38 wetland mitigation credits from the Blue Heron Reserve (Wetland) Mitigation site within six months from the date of issuance of this certificate.

#### **C. Compensatory Stream Mitigation**

The Permittee shall compensate for the estimated 990.00 linear feet of impacts to the Ottawa River by removing the Secor Road Dam along the Ottawa River (RM 11.4, HUC 04100001). The stream mitigation for the project shall be a minimum of 1,485 linear feet. The dam removal is expected to improve fish passage, channel habitat, and the natural flow regime of the Ottawa River. The effected area(s) shall include riparian buffer restoration and construction of riffle areas to enhance habitat diversity.

- 1. Pooled Stream Mitigation Credit:** On a case-by-case basis and with Ohio EPA's approval, the excess stream mitigation remaining after that required for this project, or 9,075 linear feet, shall be used exclusively by ODOT as pooled stream mitigation for future ODOT projects requiring stream mitigation occurring within the same watershed as the project impacts or, an adjacent watershed, with justification. The Permittee shall provide Ohio EPA with a copy of the stream mitigation credit balance sheet showing the amount of credits deducted from the Secor Road Dam Stream Mitigation Area. A balance sheet will be submitted to Ohio EPA when utilized for compensation of unavoidable stream impacts associated with ODOT projects. When compensation is required on future ODOT projects, the balance sheet shall contain an updated list of all ODOT projects using mitigation credit from the stream mitigation projects. It shall include the project name (or ODOT ID#), location of the project, amount of credit deducted, per project, and remaining mitigation balance.

**2. Pre-Dam Removal Assessment**

- i. Historical information shall be obtained on the stream prior to dam construction. The information shall include aerial photographs and site maps depicting the stream and riparian configuration.

**3. Post-Dam Removal Assessment**

- i. **Monitoring Reports:** Annual reports containing monitoring and assessment information shall be submitted to Ohio EPA the first and fifth years following completion of the dam removal project. The first annual report is due to Ohio EPA by December 31 of the first full year following removal of the dam. All subsequent reports shall be submitted by December 31<sup>st</sup> of each of the subsequent monitoring years. ODOT may include any additional information that it believes relevant for Ohio EPA's consideration.

- ii. **Mitigation Area Drawings:** At a minimum, the first, third, and fifth year annual reports shall contain current representative drawings (no larger than 11" by 17") or photographs of the stream mitigation areas, including each bank and riparian buffer of the pooled area of the Mahoning River, upstream of the former dam, and sections of the river downstream of the dam.

- iii. **Photographs:** A representative observation point shall be selected in each riparian plant community type in distinct mitigation area. This shall be a point which best represents the characteristics of the entire plant community. The observation points shall be marked on the base map.

Applicant shall take photographs from these points annually for five years. Each color photo point shall be photo documented from the same position and angle during July of each monitoring year.

- iv. **3<sup>rd</sup> Year Site Visit:** The applicant shall arrange a mitigation meeting and mitigation site visit with Ohio EPA during the growing season after the third year report has been submitted. The purpose of this inspection is to determine if the mitigation project has been constructed in accordance with the agreement between the applicant and Ohio EPA. If necessary, Ohio EPA may make recommendations to improve the stream. The applicant is responsible for undertaking any reasonable modifications identified by Ohio EPA.

- v. **Physical Measurements** - A plan view, longitudinal profile along the thalweg, and at least one cross-section through a pool area and another through a riffle area is required for the mitigated stream in the immediate dam removal area.
- vi. **Stream Bank Erosion Monitoring:** The stream banks in the immediate vicinity of the dam removal area shall be monitored for any potential new bank erosion areas that occur post-dam removal. If such areas are noted they shall be photo documented in the and included in annual monitoring reports.
- vii. **Water Chemistry Monitoring:** representative grab samples shall be collected in the immediate dam removal area on May of each monitoring year. The samples shall be analyzed for specific conductivity, pH, temperature, turbidity, total suspended solids, and biochemical oxygen demand.
- viii. **Hydrology Monitoring:** Water level data and estimated flow shall be collected in May and late August of each monitoring year. Ground water levels shall be measured in the absence of inundated conditions.
- ix. **Quality Habitat Evaluation Index (QHEI)/Headwater Habitat Evaluation Index (HHEI)** scores using the most current version of that document available at the time the assessment is performed, shall be completed during years one, three and five within the immediate dam removal area.
- x. **Index of Biotic Integrity (IBI)** sampling shall include IBI assessments, upstream and downstream of the former dam area during the fifth-year monitoring event.
- xi. **Mussel Survey:** ODOT shall conduct a survey before and after dam removal during the fifth-year monitoring event, along up- and down-stream reaches of the Ottawa to determine if mussel populations are present. If mussels are found, an assessment shall be made as to whether the project is likely to harm mussel populations.
- xii. **Riparian Vegetation Monitoring:** The Permittee shall assess and monitor plants in the riparian areas (both banks) before and after dam removal in the pooled area and downstream reaches of the Ottawa River. The location and name of each plant community type within the mitigation area and buffer area shall be marked on a scaled drawing or scaled aerial photograph (base map) and named.

Representative observation points shall be selected in each plant community type in each distinct stream mitigation area. This shall be a point which best represents the characteristics of the entire plant community. The observation points shall be marked on the base map.

The dominant plant species shall be visually determined in each vegetation layer of each community type, and the scientific names of these species shall be included in the report. Dominant species are those species which have the greatest relative basal area (woody overstory), greatest height (woody overstory), greatest percentage of aerial coverage (herbaceous understory), and/or greatest number of stems (woody vines).

- a. **Invasive Plant Species** - Vegetation monitoring shall include a description of invasive plant species encroaching upon or within the stream mitigation area, including the surrounding buffer area. The relative abundance of *Phragmites australis*, *Phalaris aundinacea*, and *Lythrum salicaria* shall be noted in the report. Aerial coverage of invasive species within each MA shall be less than 10 percent. If identified, these species will be physically removed or chemically treated with a herbicide. The application of herbicides shall not result in harm to water or terrestrial resources, including wildlife (e.g. salamanders), and shall be applied by a licensed or certified applicator. Herbicides applied in or around surface water must be labeled by its manufacturer as being appropriate for use in the waters. The application of pesticides shall be done in accordance with the methods prescribed by the manufacturer's instructions included with the product being applied.

#### D. **Stream Mitigation Area Performance Criteria**

Within five (5) years after completion of removal of Secor Road Dam, the Ottawa River mitigation area shall be stable and intact and achieve, at a minimum, warm water status, based on assessment by QHEI. Aerial coverage of invasive species within each riparian area shall be less than 10 percent.

ODOT and Ohio EPA are aware that there are nearby remediation or restoration efforts occurring on the Ottawa River by other organizations. If any remediation activities occur during ODOT's five-year

monitoring period on the Ottawa River that may potentially compromise achieving the performance goals, ODOT shall contact Ohio EPA to discuss the situation.

- E. Contingency Plan:** If the stream mitigation project is not performing as proposed by the end of the fifth year of post construction monitoring, the monitoring period may be extended and or ODOT may be required to revise the existing mitigation or seek out new or additional mitigation areas.

#### **IV. Notifications To Ohio EPA**

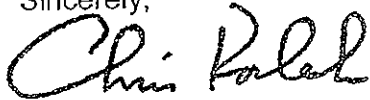
All notifications, correspondence, and reports regarding this certification shall reference the following information:

**Permittee:** Ohio Department of Transportation (ODOT)  
**Project:** I-75/I-45 Interchange Improvements  
LUC-75-4.52, PID 77255  
**Ohio EPA ID#:** 073225

**and shall be sent to:** Ohio EPA, Division of Surface Water, 401 Unit  
Lazarus Government Center  
55 West Town Street, Suite 700  
Columbus, Ohio 43216

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 thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 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 (3) 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, 309 South Fourth Street, Room 222, Columbus, OH 43215

Sincerely,



Chris Korleski,  
Director

cc: Deborah L Wegmann, Team Leader, U.S. Army Corps of Engineers,  
Huntington District, Ohio Regulatory Transportation Office  
Wayne Gorski, U.S. EPA, Region 5,  
William Cody, Asst. Administrator, OES/ODOT  
Mike Pettegrew, Supervisor, Waterway Permits Unit, OES/ODOT  
Don Rostofer, Supervisor, Ecological Unit, OES/ODOT  
Megan Seymour USF&WL (Reynoldsburg Office),  
Brian Mitch, ODNR  
Rahel Babb, NEDO/Ohio EPA