

OHIO E.P.A.

MAR 13 2006

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Greater Ohio Ethanol, LLC
212 North Elizabeth St., Suite 203
Lima, Ohio 45801

Director's Final Findings and
Orders

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Greater Ohio Ethanol, LLC ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 6111.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent, its parents, subsidiaries, affiliates, members, agents, and successors in interest liable under Ohio law. No change in the ownership or composition of Respondent or the ownership of the Site (defined below) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 6111., and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has made the following findings:

1. Respondent proposes to construct an ethanol production plant on fifteen acres of property located on Hanthorn Road in Lima, Allen County, Ohio ("the Site").

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

[Signature] Date 3-13-06

2. Storm water from the Site discharges to an unnamed tributary of Lost Creek. The unnamed tributary and Lost Creek constitute "waters of the state," as defined by ORC § 6111.01(H). Sediment contained in the storm water constitutes "other wastes," as defined in ORC § 6111.01(D). Placement of this waste into waters of the state constitutes "pollution," as defined in ORC § 6111.01(A).
3. Ohio Administrative Code (OAC) § 3745-38 provides that no person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant from a point source without either applying for and obtaining an Ohio National Pollutant Discharge Elimination System (NPDES) individual permit in accordance with requirements of Chapter 3745-33 of the Administrative Code, complying with the indirect discharge permit program pursuant to Chapter 3745-36 of the Administrative Code or obtaining authorization to discharge under an Ohio NPDES general permit in accordance with requirements of Chapter 3745-38 of the Administrative Code.
4. ORC § 6111.03(J)(1) authorizes the Director to set the terms and conditions of the permit. That section further provides that any permit terms and conditions set by the director shall be designed to achieve and maintain full compliance with mandatory requirements of the Federal Water Pollution Control Act that are imposed by regulation of the Administrator of the United States Environmental Protection Agency. Pursuant to Section 402(p) of the federal act, the Administrator of USEPA imposed by regulation requirements to regulate storm water discharges. Under 40 C.F.R. 122.26, dischargers of storm water associated with construction activity that disturbs more than one (1) acre of land are required to obtain an individual NPDES permit or coverage under a storm water general permit.
5. Because the Site is a construction site which disturbs more than one (1) acre of land, Respondent was required to submit a Notice of Intent (NOI) to obtain coverage under the Ohio EPA National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Activity (NPDES Storm Water General Permit) prior to initiating construction activity.
6. On May 17, 2005, Ohio EPA conducted an inspection at the Site and determined that approximately 15 acres of land had been disturbed by clearing the wood lot. The inspection confirmed that construction activities at the Site had commenced prior to the submission of a NOI, in violation of OAC § 3745-38-06 and ORC § 6111.07.
7. Stormwater passed over all or part of the disturbed portions of this construction site and picked up dirt and soil which was discharged off site to waters of the state. The discharge, at least in part, was from bulldozers and/or other earthmoving equipment, and/or from piles of earth and land clearing debris formed by such equipment and earthmoving activity and/or left the site in discrete conveyances such as drains, ditches, fissures, rills or gullies and/or trenches.

8. The discharges from the construction site were point source discharges.
9. Respondent is an "operator" as defined in the NPDES Storm Water General Permit.
10. Respondent submitted a NOI on May 18, 2005. NPDES Storm Water General Permit coverage was granted for the Site on August 5, 2005.
11. By way of storm water discharges, and until August 5, 2005, when Respondent obtained authorization under a construction storm water general permit, Respondent discharged wastes and pollutants into waters of the state without a permit or authorization in violation of ORC § 6111.04 and OAC § 3745-38-02(A) and 40 C.F.R. 122.26.
12. Located on Respondent's property is approximately two thousand linear feet of a Class II intermittent headwater stream, and 0.45 acres of Category 2 forested wetlands, as defined in OAC § 3745-1-54(C), which constitute "waters of the state" as defined in ORC § 6111.01(H).
13. On April 6, 2005, Respondent submitted an application for a Section 401 water quality certification.
14. As part of the review of this application, Ohio EPA conducted an inspection of the Site on May 17, 2005, and determined that excavation/development activities had occurred which resulted in 1) the placement of fill into waters of the state; 2) the degradation of other portions of the wetland and other waters of the state; and 3) the failure to maintain and protect the existing wetland uses and/or existing functions and value of a portion of the wetland.
15. A Section 401 water quality certification, or other authorization from Ohio EPA is required to perform the activity described in Finding No. 14.
16. On June 22, 2005, Respondent was notified via certified mail that the placement of fill into waters of the state, without a valid Section 401 water quality certification, was in violation of ORC Chapter 6111., and OAC Chapter 3745-32.
17. On August 5, 2005, the Director of Ohio EPA issued Respondent a Section 401 water quality certification.
18. Pursuant to ORC §6111.04, no person shall place or discharge, or cause to be placed or discharged, in any waters of the state any sewage, sludge, sludge materials, industrial waste, or other wastes without a valid, unexpired permit.
19. Pursuant to ORC § 6111.07(A), no person shall violate or fail to perform any duty imposed by ORC §§ 6111.01 to 6111.08 or violate any order, rule, or term or

condition of a permit issued or adopted by the Director of Ohio EPA pursuant to those sections. Each day of violation is a separate offense.

20. Respondent has caused pollution by discharging or placing or causing to be placed other wastes into waters of the state in violation of the NPDES Storm Water General Permit and without a Section 401 water quality certification or other authorization from Ohio EPA, in violation of ORC §§ 6111.04 and 6111.07.
21. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purpose of ORC Chapter 6111.

ORDERS

1. Respondent shall not initiate construction activities that disturb more than one acre of land without first obtaining an NPDES Storm Water General Permit for the disturbed area.
2. Respondent shall not initiate or continue construction activities that disturb more than one acre of land without having first developed and implemented a Storm Water Pollution Prevention Plan (SWP3) that satisfies all minimum criteria listed in Part III of the NPDES Storm Water General Permit.
3. Within fourteen (14) days of the effective date of these Orders, Respondent shall develop a SWP3 for the Site that satisfies all minimum criteria listed in Part III of the NPDES Storm Water General Permit. Respondent shall submit a copy of the SWP3 to Ohio EPA Northwest District Office, in accordance with Section X. of these Orders, for review and approval.
4. If the SWP3 that is submitted by Respondent pursuant to Order No. 3 is deemed deficient by Ohio EPA, Respondent shall revise the SWP3 to incorporate Ohio EPA's recommendations within seven (7) days of receipt of notice of any deficiencies. Respondent shall submit a copy of the revised SWP3, in accordance with Section X. of these Orders, to Ohio EPA Northwest District Office.
5. Respondent shall immediately implement the SWP3 upon approval by Ohio EPA or upon revision in accordance with Ohio EPA's recommendations.
6. From the effective date of these Orders and until all disturbed areas on the Site meet the criteria for final stabilization, as outlined in the NPDES Storm Water General Permit, Respondent shall comply with the SWP3 approved pursuant to

Orders Nos. 3 and 4, and/or any future amendments to the SWP3, in accordance with Part III.D of the NPDES Storm Water General Permit.

7. Respondent shall not alter, fill, dredge or otherwise degrade the uses and /or existing functions or values of any portion of a wetland or stream at any location in Ohio, without first receiving prior approval from the Director as required by law.
8. Respondent shall perform all mitigation as required in Respondent's 401 Water Quality Certification. Respondent's 401 Water Quality Certification is fully incorporated within these Orders as Attachment A.
9. Respondent shall pay to the Ohio EPA the amount of eight thousand one hundred seventy-nine dollars (\$8,179) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the amount of six thousand five hundred forty three dollars (\$6,543) within thirty (30) days of the effective date of these Orders. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent and the Site, at the following address:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

10. In lieu of paying the remaining one thousand six hundred and thirty six dollars (\$1,636) of civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of one thousand six hundred and thirty six dollars (\$1,636) to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for one thousand six hundred and thirty six dollars (\$1,636). The official check, together with a letter identifying Respondent and the Site, shall be submitted to Brenda Case, or her successor, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A photocopy of both checks shall be sent to Ohio EPA, in accordance with Section X. of these Orders, and to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the address listed below:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, OH 43215-1049

11. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 10, Respondent shall immediately pay to Ohio EPA one thousand six hundred and thirty six dollars (\$1,636) of the civil penalty in accordance with the procedures in Order No. 9.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Surface Water acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to the site.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. Notice

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Surface Water
Attn: DSW Enforcement Unit Supervisor
347 North Dunbridge Road
Bowling Green, Ohio 43402

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Surface Water
401 Section
122 South Front Street
Columbus, Ohio 43215
Attn: 401 Section Manager

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII. of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees

to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

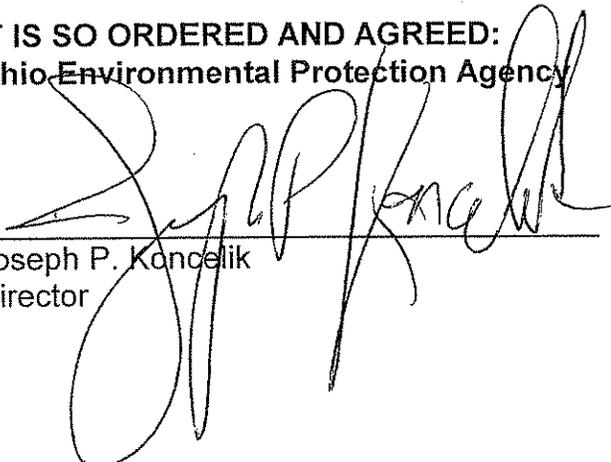
XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIII. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:
Ohio Environmental Protection Agency**

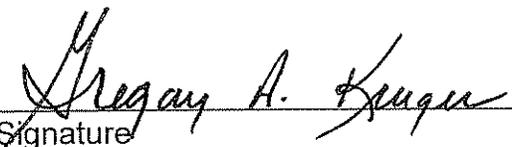


Joseph P. Kancelik
Director

Date

3/13/06

**IT IS SO AGREED:
Greater Ohio Ethanol**



Signature

Date

3-1-2006

GREGORY A. KRUGER
Printed or Typed Name

PRESIDENT
Title



State of Ohio Environmental Protection Agency
OHIO E.P.A.

STREET ADDRESS:

Lazarus Government Center
122 S. Front Street
Columbus, Ohio 43215

AUG - 5 2005

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

ENTERED DIRECTOR'S JOURNAL

MAILING ADDRESS:

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

Certified Mail

August 5, 2005

Greater Ohio Ethanol, LLC
Attn: Greg Kruger
212 North Elizabeth St, Suite 203
Lima, OH 45801

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

By: 

Date: 8/5/05

Re: Allen County / Perry Township / City of Lima
Grant of Section 401 Water Quality Certification (Minimal Degradation
Alternative)
Project to construct an ethanol plant
ACOE Public Notice No. 2004-01905(1)
Ohio EPA ID No. 052245

Ladies and Gentlemen:

The Director of Ohio Environmental Protection Agency hereby authorizes the above referenced project under one or both of the following authorities and 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, 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.

Ohio Isolated Wetland Permit

Pursuant to Ohio Revised Code Chapter 6111 and Ohio Administrative Code Chapter 3745-1, and other applicable provisions of state law, the Director of Ohio Environmental Protection Agency hereby concludes that the above-referenced project will comply with the applicable provisions of Sections 6111.03 and 6111.04 of the Ohio Revised Code.

This authorization is specifically limited to a Section 401 Water Quality Certification and/or Ohio Isolated Wetlands permit 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 Auglaize River watershed (HUC 04100007) as authorized by this Section 401 Water Quality Certification/Ohio Isolated Wetlands Permit 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.

Bob Taft, Governor
Bruce Johnson, Lieutenant Governor
Joseph P. Koncelik, Director

I. ON-SITE WATER RESOURCES AND IMPACTS

This certification applies to the Section 401 Water Quality Certification application dated April 2005, including the two additional documents received in July, 2005. And is issued subject to the following conditions:

- A. Site Setting - This site is situated in the watershed of Lost Creek within the Auglaize River watershed (HUC 04100007). The site contains two unnamed tributaries to Lost Creek, and three jurisdictional wetlands.
- B. Streams - Implementation of this project will result in impacts to 2000 linear feet of stream A.

Stream ID	Type* E, I, or P	HHEI Score*	Total Length on Site (lf)	Total Length Impacted (lf)	Impact Type	% Avoided
A	I	57(Class II)	3732	2000	Relocate	46.41%
B	I	57(Class II)	757	0	none	100.00%
Totals			4489	2000		55.45%

* As provided by applicant

- C. Wetlands - Implementation of this project will result in impacts to 0.45 acres of wetlands on site.

Wetland ID	Isolated or Jurisdictional?	Category	Total Acreage on Site	Total Acreage Impacted	% Avoided
A	Jurisdictional	2	0.45	0.45	0.00%
B	Jurisdictional	2	0.99	0	100.00%
H	Jurisdictional	2	0.57	0	100.00%
Totals			2.01	0.45	77.61%

II. GENERAL CONDITIONS

- A. 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.
- B. 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.
- C. All water resources and their buffers which are to be avoided shall be adequately 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.
- D. The applicant shall notify Ohio EPA in writing upon the start and completion of site development and mitigation construction.
- E. Work shall only take place during low water conditions in order to minimize adverse impacts to water quality away from the project site.
- F. Temporary fill shall consist of suitable non-erodible material or shall be stabilized to prevent erosion.
- G. 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.
- H. BMPs shall be taken during construction to minimize erosion.
- I. BMPs shall be taken upon completion of this project, to ensure bank stability. This may include, but is not limited, to bank seeding.
- J. 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.

- K. 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.
- L. In temporary impact areas where trees have been removed to facilitate construction, they shall be replaced with appropriate native tree species.
- M. Stormwater basins on the site which have Extended Detention or Permanent Pool water quality features shall meet the design specifications in Ohio EPA Permit OHC000002. Stormwater basins on site which have water quality features (Forebay, Aquatic Benches and Wetlands, Optimum Flow Length, Reverse Flow Pipe, Optimum Pool Depth, Shading and Buffer Plants, and Runoff Reuse) shall meet the design specifications contained in the Ohio Department of Natural Resources Rainwater and Land Development document, second edition, 1996, or successor document.
- N. Stormwater management measures shall be inspected immediately after each rainfall and at least daily during periods of prolonged rainfall. Specifications for any necessary repairs and removal of sediment deposition shall be developed as needed in the Stormwater Pollution Prevention Plan for the site.
- O. The bottom elevations of streams shall be restored as nearly as possible to pre-project conditions.
- P. Stream culverts 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).
- Q. Blasting will not be done within or adjacent to 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.
- R. Cadmium chromium arsenate (CCA) and creosote treated lumber shall not be used in structures in contact with waters of the state.
- S. This proposal may require other permits from Ohio EPA. For information concerning application procedures, contact the Ohio EPA District Office at the following address:

Northwest District Office, 347 North Dunbridge Road, P.O. Box 466,
Bowling Green, Ohio 43402-0466.

III. MITIGATION

A. Description of Required Mitigation - The applicant shall perform all mitigation as described in the On-Site Wetland and Stream Mitigation Plan and the Sugar Creek Stream Mitigation Plan submitted in July 2005. These plans have been supplemented with additional information received August 2, 2005.

1. Streams

As mitigation for impacts to 2000 linear feet of streams on site, the applicant shall perform the relocation/restoration project of 2,300 LF as described in the On-Site Mitigation plan dated July, 2005, with additional documentation submitted August 2, 2005. The stream relocation will include the planting of 200 1-gallon trees in the stream's riparian buffer.

Also as mitigation for the stream impacts, the applicant will perform 1500 LF of stream restoration activities on Sugar Creek as described in the Sugar Creek stream Mitigation Plan, dated July 2005 with revised maps submitted on August 2, 2005. This mitigation shall include a 200 ft wide riparian buffer protected in perpetuity.

2. Wetlands

As mitigation for impacts to 0.45 acres of wetlands, the applicant shall create 2.3 acres of Category 2, forested wetlands on-site. This mitigation shall be performed as described in the On-Site Mitigation Plan and the subsequent clarification document received August 2, 2005.

3. Buffers

Buffers areas will be included for all of the mitigation projects as described in the mitigation plans. Buffer areas and the off-site and on-site mitigation projects shall be protected in perpetuity through conservation easements held by the Ottawa River Coalition.

B. Timing of Mitigation Requirements

1. The on-site mitigation project construction shall be completed by December 31, 2005.
2. The applicant shall complete construction of the off-site stream restoration project by December 31, 2006.
3. For all of the mitigation areas, including streams, wetlands and buffers, the applicant shall submit to Ohio EPA an acceptable, notarized, recorded, and filed conservation easement by December 31, 2005. The conservation easement shall protect, in perpetuity, all of the water resources and their buffers as listed in the mitigation plans.
4. The mitigation monitoring period shall commence immediately following completion of mitigation construction and shall continue through a five-year monitoring period, except as provided for in part E, below.

C. Monitoring/Reporting Requirements

1. General Requirements:

Monitoring Reports: Annual reports containing the data listed in the appropriate subsections below shall be submitted to Ohio EPA for each of five consecutive years following completion of mitigation construction. The first annual report is due to Ohio EPA by December 31, 2006. All subsequent reports shall be submitted by December 31st of each of the subsequent monitoring years.

The applicant may include any additional information that it believes relevant for Ohio EPA's consideration.

As-built Drawings: At a minimum, the first, third, and fifth year annual reports shall contain current drawings no larger than 11" by 17" of the relocated/restored stream.

Third-Year Site Review: The applicant shall arrange an on-site mitigation meeting 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 wetland, streams or buffers. The applicant is responsible for undertaking any reasonable modifications identified by Ohio EPA.

2. Streams:

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 each mitigation stream. Additional cross sections may be required if necessary to accommodate significant variations in slope, entrenchment or other key morphological parameters.

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.

Photographs: A representative observation point shall be selected approximately every 200 ft of relocated/restored stream length. This shall be a point which best represents the characteristics of the stream section and buffer. The observation points shall be marked on the base map. The applicant shall take color photographs from these points from the same position and angle during July of each monitoring year.

Vegetation Monitoring: The location and name of each plant community type within the stream restoration segment and its buffer area shall be marked on a scaled drawing or scaled aerial photograph (base map) and named.

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).

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 for each mitigated stream during years one, three and five.

3. Wetlands

Physical Measurements - A plan view and at least one cross-section through the short axis and another through the long axis is required for each mitigated wetland.

Hydrology Monitoring: Water level data shall be collected in May and late August of each monitoring year. Ground water levels shall be measured in the absence of inundated conditions.

Soils Monitoring: A minimum of one soil probe or test pit per acre of mitigated wetland shall be collected. Describe the soil profile and hydric soil indicators. Indicate the soil map unit name (soil series and phase) and the taxonomic subgroup. The soil samples shall be analyzed during years 1,3, and 5 for Percent Nitrogen, Percent Carbon, Percent Total Organic Matter, and Bulk Density in the upper 12 cm.

Vegetation Monitoring: 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.

A representative observation point shall be selected in each plant community type in each distinct wetland 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).

Vegetation Index of Biotic Integrity (VIBI): The applicant shall assess the mitigation wetlands to obtain a VIBI score according to methods approved by Ohio EPA (<http://www.epa.state.oh.us/dsw/401/401.html>) during the growing season of the third and fifth years after completion of construction of the mitigation wetlands.

D. Performance Criteria

1. Streams:

Five (5) years after completion of construction of the on-site and off-site relocated/restored streams, the riparian zone will be at least 80 % native Ohio woody cover.

Five (5) years after completion of the off-site restoration project on Sugar Creek, the mitigated section of stream shall develop a minimum QHEI of 42.

Five (5) years after completion of the on-site relocation/restoration project, the mitigated stream shall develop a minimum HHEI of 57.

2. Wetlands:

Within five (5) years after completion of construction of the mitigation wetlands dedicated for the Greater Ohio Ethanol project, the applicant shall have developed a minimum of 2.3 acres of Category 2 and/or 3 forested wetlands.

By the end of the five year monitoring period, the mitigation wetland shall attain a Vegetation IBI score of 47 or higher.

The mitigation wetland shall contain no more than 5% invasive species.

The mitigation wetland shall have less than 10% of its total area as "unvegetated open water." "Unvegetated open water" is defined as inundated areas where there is no or minimal emergent, rooted aquatic bed (e.g. *Nuphar advena*, *Nymphaeae odorata*, *Potamogeton* spp.), or submersed or floating non-rooted aquatic bed (e.g. *Utricularia* spp., *Ceratophyllum* spp. excluding species in the Lemnaceae) vegetation growing in the area of inundation.

E. Contingency Plans

If the mitigation areas are not performing as proposed by the end of the fifth year of post construction monitoring, the monitoring period may be extended and or the applicant may be required to revise the existing mitigation plan or seek out new or additional mitigation areas.

Ohio EPA may reduce or increase the number of years for which monitoring is required to be conducted based on the effectiveness of the mitigation.

Greater Ohio Ethanol, LLC
August 5, 2005
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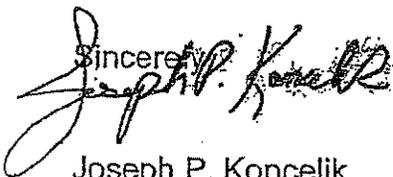
IV. NOTIFICATIONS TO OHIO EPA

All notifications, correspondence, and reports regarding this Section 401 Water Quality Certification and/or Isolated Wetlands Permit shall reference the following information:

Applicant: Gregory Kruger, President / Greater Ohio Ethanol, LLC
Project: Greater Ohio Ethanol
Ohio EPA ID#: 052245
and shall be sent to:
Ohio EPA, Division of Surface Water, 401 Unit
Lazarus Government Center
122 South Front 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 by any person who was a party to this proceeding. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. It must be filed with the Environmental Review Appeals Commission within thirty (30) days after the notice of the Director's action. A copy of the appeal must be served on the Director of the Ohio Environmental Protection Agency and the Environmental Enforcement Section of the Office of the Attorney General within three (3) days of the filing with the Commission. An appeal may be filed with the Environmental Review Appeals Commission, 309 South Fourth Street, Room 222, Columbus, Ohio 43215.

Sincerely,



Joseph P. Koncelik
Director

cc: Elizabeth Stone, U.S. Army Corps of Engineers, Buffalo District
Kevin Pierard, U.S. EPA, Region 5
Mary Knapp, U.S. Fish & Wildlife Service
Randy Sanders, ODNR, Division of Real Estate & Land Management
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Tom Balduf, NWDO
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