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March 14, 2016

Via Electronic Filing

Ms. Barcy McNeal
Administration/Docketing
Public Utilities Commission of Ohio
180 East Broad Street, 11th Floor
Columbus, OH 43215-3793

**Re: Clean Energy Future-Lordstown, LLC,
OPSB Case No. 14-2322-EL-BGN**

Dear Ms. McNeal:

The September 17, 2015, Opinion, Order, and Certificate ("Certificate") approving Clean Energy Future-Lordstown, LLC ("CEFL") Certificate of Environmental Compatibility and Public Need to Construct the Lordstown Energy Center established a set of conditions as part of the Certificate.

Within this set of conditions, **Condition No. 10** requires that:

Prior to the commencement of construction activities that require permits or authorizations by federal or state laws and regulations, the Applicant shall obtain and comply with such permits or authorizations. The Applicant shall provide copies of permits and authorizations, including all supporting documentation, to Staff within seven days of issuance or receipt by the Applicant. The Applicant shall provide a schedule of construction activities and acquisition of corresponding permits for each activity at the preconstruction conference.

In compliance with **Condition No. 10**, attached is a copy of the Section 401 Water Quality Certification dated March 11, 2016.

If you have any questions please call at the number listed above.

Sincerely,

Sally W. Bloomfield

Attachment

cc: Jon Whitis (w/Attachment)
Grant Zeto (w/Attachment)



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

OHIO E.P.A.

MAR 11 2016

ENTERED DIRECTOR'S JOURNAL

Certified Mail

Re: Henn Development

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

**Approval
401 Wetlands
Trumbull
DSW401083366**

March 11, 2016

By:  Date: 3/11/16

William Siderewicz
Clean Energy Future-Lordstown, LLC
24 Proctor Street
Manchester, Massachusetts 01944

Subject: Henn Development / Lordstown Energy Center
Trumbull County / Lordstown Township
Modification of Section 401 Water Quality Certification
Minimal Degradation Alternative
Ohio EPA ID No. 083366

Dear Stakeholders:

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

Section 401 Water Quality Certification

Pursuant to Section 401 of the Federal Water Pollution Control Act, Public Law 95-217, I hereby certify that the above-referenced project will comply with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the Federal Water Pollution Control Act. This authorization is specifically limited to a Section 401 Water Quality Certification (here after referred to as "certification") with respect to water pollution and does not relieve the Certification Holder of further Certifications or Permits as may be necessary under the law. I have determined that a lowering of water quality in the Mahoning Watershed (HUC 05030103) as authorized by this certification is necessary. I have made this determination based upon the consideration of all public comments, if submitted, and the technical, social, and economic considerations concerning this application and its impact on waters of the state.

I. ON-SITE WATER RESOURCES AND IMPACTS

A. Watershed Setting

Site Setting: Impacts to water resources occurred without proper permits by the applicant. Impacts were caused by construction of a road and a storm water collection system. The applicant is proposing to develop two additional lots on Henn Parkway.

HUC (8-Digit) and Drainage Name:

05030103 050 / Mahoning Watershed / Mud Creek.

Designations: Warm Water Habitat / Agriculture Water Supply / Industrial Water Supply / Primary Contact Recreation

Watershed Impairment Status and Causes of Impairment: Per the Ohio EPA 2008 Integrated Report Appendix M.2 Watershed Assessment Unit (WAU) Summaries, a report developing the TMDL for bacterial contaminants impairing the recreation beneficial use in the Mahoning River basin including the Mahoning River main stem was approved by the U.S. EPA on September 17, 2004. The TMDL report is available at <http://www.epa.state.oh.us/dsw/tmdl/index.html>. No data are available to assess the aquatic life uses or fish consumption status of this assessment unit.

B. Project Description

To construct an energy conversion facility

C. Impacts

Under the Minimal Degradation Alternative, impacts to waters of the state are as follows:

1. Streams

Impacts to streams are not authorized under this certification.

2. Wetlands

Wetland ID	Isolated or Jurisdictional?	Forested or Non-Forested	Category/ORAM	Total Acreage on Site	Impacts Without Permit	Proposed Acreage Impacted	% Avoided
A	J	F and NF	70/3	20.03		0.11 Convert Forest to Non-Forest	99
B	J	NF	42/2	0.38	0.38		0
C	J	NF	25/1	1.27	0.1	1.17	0
K	J	F	57/2	5.63		0.039 Convert Forest to Non-Forest	99
M	J	NF	28/1	0.02			100
M7	J	NF	19/1	.008		.008	0
N	J	NF	32/2	0.02			100
P	J	NF	33/2	0.01	0.01		0
S	J	NF	56/2	0.06	0.06		0
T	J	NF	29/1	0.27			100
Total				27.69	0.55	1.33	93
	Prior and Proposed Impacts				1.88		

3. Lakes

Impacts to lakes are not authorized under this certification.

II. TERMS & 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.

- B. 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.
- C. Best Management Practices (BMPs) shall be utilized 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.
- D. Work shall only take place during low water conditions in order to minimize adverse impacts to water quality away from the project site.
- E. Temporary fill shall consist of suitable non-erodible material or shall be stabilized to prevent erosion.
- F. 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.
- G. BMPs shall be utilized during construction to minimize erosion.
- H. BMPs shall be utilized upon completion of this project, to ensure bank stability. This may include, but is not limited, to bank seeding.
- I. 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.
- J. 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.
- K. In temporary impact areas where trees have been removed to facilitate construction, they shall be replaced with appropriate native tree species.
- L. 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.

- M. 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.
- 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 1st and September 30th.
- P. The applicant shall provide electronic maps of the development area and the mitigation area to Ohio EPA 401 section within 30 days of the date of this certification. JPEG, TIFF, PDF or BMP files are acceptable. When sending the electronic files, include the Ohio EPA ID Number and the Army Corps of Engineers Number (if applicable). If possible these electronic maps shall be GIS shape files or Geodatabase files. If this is not possible, the electronic maps shall be in another electronic format readable in GIS (GIF, TIF, etc). The electronic files shall be sent to the following e-mail address:
EPA.401Webmail@epa.ohio.gov

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

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

- Q. Cadmium chromium arsenate (CCA) and creosote treated lumber shall not be used in structures in contact with waters of the state.

- R. 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.
- 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:

Northeast District Office, 2110 East Aurora Road, Twinsburg, Ohio 44087.

III. MITIGATION

A. Description of Required Mitigation

1. Streams: The previous land owner culverted a stream parallel to Henn Parkway that originated on the west side of Rt. 45. This property is currently owned by Intier. The stream flows through a culvert under Intier's property, discharges into a constructed ditch along Henn Pkwy., and flows into the storm water collection pond for the site. The applicant will reach an agreement with Intier to relocate the culvert so the stream will flow into the original stream in wetland A, by means of a natural stream design. No stream monitoring or performance criteria will be required for this stream restoration plan as long as the stream relocation project follows the February 20, 2009 stream restoration plan submitted by MS Consultants.
2. Wetlands: Applicant reserved 2.9 acres of non-forested wetland mitigation credits from the Stream and Wetlands Foundation In-Lieu Fee program. Applicant reserved 0.2 acres of forested wetlands mitigation credits (for proposed conversion of 0.15 acres of wetlands A and K from forested to emergent wetlands) from Stream and Wetlands Foundation In-Lieu Fee program.
3. Preservation: A conservation easement will be placed on approximately 40.0 acres on site, of which approximately 19.4 acres are Category 3 wetlands and floodplains associated with the unnamed tributary to Mud Creek. See attachment for preservation map.

B. Timing of Mitigation Requirements:

1. Streams: The stream relocation/restoration shall be complete prior to earth disturbance on site. This is necessary for both the 401 and Storm Water requirements.
2. Wetlands: Within 30 days of the date of permit, a copy of a fully executed in-lieu fee program agreement with Stream and Wetlands Foundation shall be provided to Ohio EPA. **Impacts to waters of the state shall not occur until the terms of this condition have been met.**
3. Preservation: The Applicant shall submit to Ohio EPA an acceptable, notarized, recorded, and filed Conservation Easement prior to the date of the initial discharge of fill into waters of the state authorized in the certification.

The Conservation Easement, shall be held by an organization meeting the requirements of section 5301.68 of the Ohio Revised Code and include, as attachments, a metes and bounds (survey) description of the protected area, survey map, and an aerial photograph showing the boundaries of the protected area. The Conservation Easement shall protect, in perpetuity, approximately 40.0 acres of wetland and upland north of Henn Parkway as shown on the attached map.

IV. NOTIFICATIONS TO OHIO EPA

All notifications, correspondence, and reports regarding this Section 401 Water Quality Certification shall reference the following information:

Applicant: William Siderewicz
Project: Clean Energy Future – Lordstown, LLC
Ohio EPA ID#: 083366

and shall be sent to:

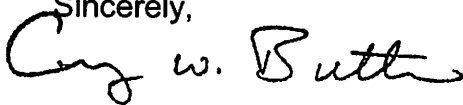
Ohio Environmental Protection Agency
Division of Surface Water, 401/IWP Unit
Lazarus Government Center
50 West Town Street
P.O. Box 1049
Columbus, Ohio 43216-1049

Pursuant to Ohio Revised Code Chapter 6111 and Ohio Administrative Code Chapter 3745-1, and other applicable provisions of state law, the director of the 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 certification does not relieve the applicant of further certifications and permits as may be necessary under the law. **This certification modifies and supersedes the water quality certification issued by Ohio EPA on March 23, 2009.**

You are hereby notified that this action of the director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within 30 days after notice of the director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Ohio Treasurer Josh Mandel," which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the director within three days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

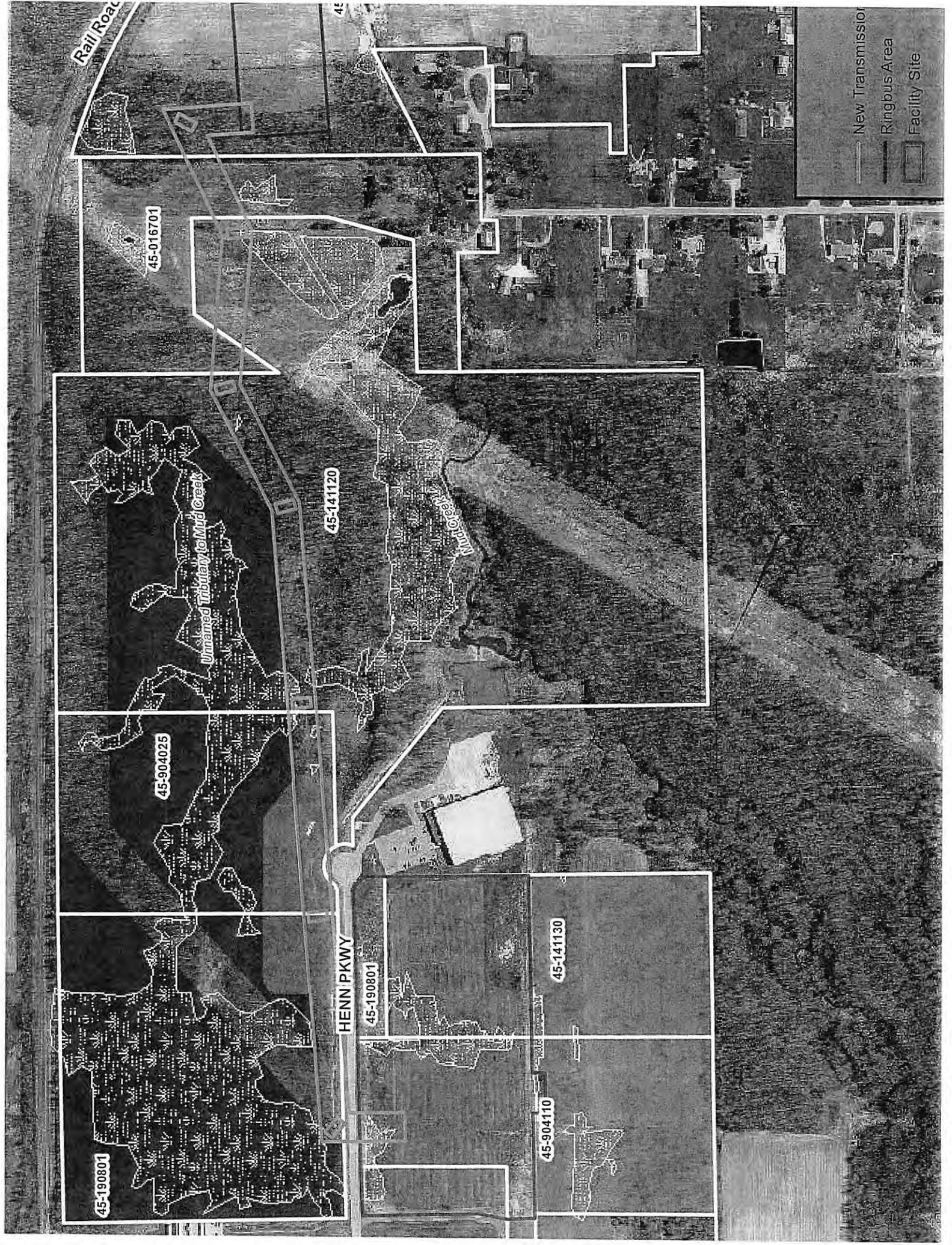
Environmental Review Appeals Commission
77 South High Street
17th Floor
Columbus 43215

Sincerely,



Craig W. Butler
Director

cc: Tyler Bintrim, Department of the Army, Pittsburgh District, Corps of Engineers
Kevin Pierard, U.S. EPA, Region 5
Dan Everson, U.S. Fish & Wildlife Service
John Kessler, ODNR, Division of Real Estate & Land Management
Dave Snyder, Ohio Historical Preservation Office
Ed Wilk Ohio EPA, DSW, Section 401/IWP
Megan Wolf, Ohio EPA, DSW, Section 401/IWP
Jeff DeShon, Ohio EPA, DSW, EAU
Vince Messerly, Stream + Wetlands Foundation
Jessica Stratigakos, The Mannik & Smith Group



Rail Road

45-016701

45-141120

45-904025

45-190801

HENN PKWY

45-190801

45-904110

45-141130

— New Transmission
■ Ringbus Area
□ Facility Site

Unnamed Tributary to Mud Creek

Reservoir

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/14/2016 4:25:42 PM

in

Case No(s). 14-2322-EL-BGN

Summary: Correspondence of Clean Energy Future-Lordstown, LLC in Compliance with Condition No. 10 electronically filed by Teresa Orahod on behalf of Sally Bloomfield