



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION

**401 CHURCH STREET
L & C ANNEX 6TH FLOOR
NASHVILLE TN 37243**

Addendum to Rationale
Including
Record of Comments and Responses
(Notice of Determination)

**National Pollutant Discharge Elimination System (NPDES)
Permit for Storm Water Runoff Associated
with Construction Activity**

Cleveland Municipal Airport

Permit No. TN0080934

September 30, 2009

Administrative Record

The Division of Water Pollution Control (division) received a permit application on May 11, 2009 for a construction storm water permit for a new municipal airport in Cleveland, Bradley County, Tennessee. Following the receipt of a complete application, the division issued Public Notice Number MMIX-013 on July 13, 2009, which contained the proposed new issuance of a permit for the Cleveland Municipal Airport (i.e. Airport, Municipal Airport, CMA), Permit Number TN0080934. A public hearing, which was public noticed on July 6, 2009 under public hearing notice number PH 09-012 and which was posted on the division's website (<http://www.tn.gov/environment/wpc/ppo/mdi/ph09012.pdf>), was held on Tuesday, August 11, 2009, at 6:00 PM EDT at the Cleveland Chamber of Commerce Building located at 225 Keith Street SW in Cleveland, TN 37311.

Following the August 11, 2009 public hearing, the division extended the public comment period to September 16, 2009. The division notified all persons who attended the public hearing and submitted their contact information to the division using the division's Record of Attendance cards (collected at the hearing), of the comment period extension. In addition to the comment period extension, the division sent all attendees of the public hearing a copy of the final draft permit with information on how to obtain a copy of the latest version of the Storm Water Pollution Prevention Plan (SWPPP), which was submitted as part of the permit application.

The proposed NPDES permit was drafted in accordance with the provisions of the Federal Water Pollution Control Act, the Tennessee Water Quality Control Act, and other lawful standards and regulations. The division received comments through September 16, 2009. This Notice of Determination (NOD) serves as the division's response to questions, comments and issues that were raised at the hearing and/or submitted during the subsequent comment period.

Comments received and responses

- 1. Comment: The division received several requests to deny the NPDES for Storm Water Runoff Associated with Construction Activity for the Cleveland Municipal Airport, Permit Number TN0080934.**

Response: The CWA (Clean Water Act) requires the division to issue permits for activities that discharge pollutants to waters of the State (waters of the US). The division will issue a permit that it believes is protective of waters of the State. Permit denial is only appropriate if the proposed activities would result in the violation of applicable water quality standards.

- 2. Comment: Several comments stated that PDC Consultants have submitted an outdated FAA MOA and Advisory Circular (150/5200-33) so that no one would see the extent of the FAA's regulations on the land in a five-mile radius around the proposed airport.**

Response: The information related to the FAA MOA Advisory Circulars deal with land use recommendations around the airport. The Advisory Circulars do not contain requirements relating to land disturbance activities. Therefore, it is not in the division's jurisdiction to make a determination of the accuracy/adequacy of the information contained in the Advisory Circulars.

- 3. Comment: The Municipal Airport Authority and PDC Consultants have repeatedly submitted false documents and misleading information, thus demonstrating that TDEC will have to spend extra resources to ensure compliance with the permit.**

Response: The permit applicant signed a certification statement as part of their permit application that stated:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this application and all attachments and that, based on my inquiry of those persons immediately responsible for obtaining the information contained in the application, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Based on this certification, the division accepted the information that was submitted as being accurate and will accept revisions to that data as new information becomes available. Should the division find that false or misleading information was

submitted, the division will refer the matter to our Enforcement and Compliance Section for appropriate action.

4. **Comment:** **The land use within a five-mile radius of the proposed airport contains a lot of dairy, beef cattle, and poultry operations, in addition to crop land. These land uses would not be allowed under the FAA's Advisory Circular, due to the potential for bird strikes on airplanes. These land use prohibitions would be detrimental to the region and would result in the loss of significant income to the land owners. Additionally, these regulations would serve to deter wildlife from inhabiting the area which would result in the loss of hunting lease agreement income to the land owners, loss of hunting equipment income to local businesses, and loss of recreation to the hunters.**

Response: We understand these concerns and appreciate their relevance in relation to the proposed airport project. However, FAA requirements lay outside our regulatory jurisdiction. The FAA may be contacted at the following address regarding questions about FAA guidance documents and requirements:

Phillip Braden, Manager
Federal Aviation Administration
Memphis Airports District Office
2862 Business Park Drive, Bldg. G
Memphis, TN 38118-1555
(901) 322-8180

5. **Comment:** **Several comments were received stating that home values in the area of the proposed airport will be negatively impacted and that home owners should receive a monetary compensation for their loss of home market value.**

Response: We appreciate concerns of the homeowners located in the area adjacent to the proposed airport project. However, property values are outside the scope and regulatory jurisdiction of our agency.

6. **Comment:** **The division received several comments requesting that the airport be required to hold all storm water in storage tanks, similar to the LAX and Bradley International airports, to prevent contamination of the underground aquifer system with hazardous materials from airport operations.**

Response: We appreciate the concerns about aquifer contamination from hazardous materials use related to airport operations. However, post-construction stormwater control is outside of the scope and regulatory jurisdiction of our agency. The Bradley County MS4 (municipal separate storm sewer system) can be contacted at:

Ms. Sandra Knight, County Engineer
(423) 728-7107
sknight@bradleyco.net

In addition, it is the division's understanding that the Bradley International airport collection basin is strictly related to treatment of process water and stormwater runoff associated with deicing operations. The LAX airport underground stormwater detention system was used due to space restrictions. Equivalent aboveground

detention basins will be used at the proposed Cleveland Airport location, and are mandated by the local MS4 authority (Bradley County).

- 7. Comment:** **The division received several requests that the Cleveland Municipal Airport Authority be required to provide finished water to all residences in a five-mile radius of the proposed airport at no cost to the residents. The Airport Authority should pay for well monitoring on all wells within a five-mile radius of the proposed airport during construction and for ten years following completion of construction. Any contamination must be cleaned up by the airport and/or finished water must be provided to any affected well users.**

Response: It is not expected for proposed construction activities to have any impact to quality or quantity of finished water supply to residences in the area.

- 8. Comment:** **This permit does not provide for the implementation of the siltation and Habitat Alteration TMDL for the Hiwassee River Watershed (HUC 06020002).**

A TMDL for siltation and habitat alteration was developed in January 2006 which includes the sub-watershed for Chatata and Little Chatata Creeks. The creeks remain impaired according to the state's 2008 Section 303(d) List for siltation and habitat alterations. Table 8 on Page 24 of the TMDL provides for a 51.2% reduction in sediment entering these waterbodies. The TMDL also assigns a WLA of 53.6% reduction for the category of MS4s and construction sites (Page ix). The streams remain impaired despite the implementation of this TMDL over the previous 3.5 years through BMPs (best management practices) and SWPPPs (Pages 28-26). Since the streams remain impaired a reduction in sediment loads remains necessary to meet the target load of 399.8 lbs/ac/year for these sub-watersheds. Therefore, no sediment can be permitted to enter these streams in accordance with implementation of the TMDL. In accordance with the Division's anti-degradation rules for waters with unavailable conditions, the discharge of pollutants for which the receiving waters are impaired can not be allowed (Rule 1200-4-3-.06).

Response: The TMDL references requirements for sites covered under the General NPDES Permit for Discharges of Storm Water Associated with Construction Activities (CGP) and states that Waste Load Allocations (WLAs) provided to NPDES-regulated construction activities will be implemented as BMPs. This is an individual permit that contains more stringent requirements from the CGP, including stormwater monitoring and biological monitoring, and therefore satisfies the requirements of the TMDL. Adherence to the multiple BMPs and EPSCs (erosion prevention and sediment controls) in this permit will prevent degradation of the receiving stream.

- 9. Comment:** **Subsection IV.D.6. should state that, "Permittees shall comply with any additional erosion prevention, sediment controls and storm water management measures required by a local MS4 program or municipality..."**

Response: Subsection IV.D.6. of the final permit was revised to state that:

“Permittees shall comply with any additional erosion prevention, sediment controls and storm water management measures required by a local MS4 program or municipality.”

- 10. Comment:** **This permit must contain numeric limits for Total Suspended Solids (TSS) and turbidity.**

The receiving waters for this proposed discharge are on Tennessee’s 2008 Section 303(d) List of Impaired Waters for siltation and habitat alterations. Siltation and solids are commonly present in stormwater discharges from construction sites, and this will contribute to the existing impairments in Chatata and Little Chatata Creeks. We recognize the Division discusses this issue in the Rationale (Page R-2), but excluding this permit from numeric limits due to the existence of a SWPPP ignores the potential for this facility to make worse the conditions of the receiving waters. If it is the Division’s position “Implementation of an aggressive SWPPP” (Page R-2) will prevent excessive sediment loads entering these waters there should be difficulty in applying numeric limits for TSS and turbidity. Nor should the permit applicant oppose numeric limits if the intent is for the SWPPP and BMPs to be implemented appropriately and effectively.

Why are there no effluent limitations? Each outfall should be monitored any time there is a discharge for pH and turbidity (NTUs).

Response: There are currently no applicable numeric water criteria on which to base limitations for TSS and turbidity. In the absence of an established relationship between concentration of these pollutants and the designated uses of the receiving stream, numeric limits can not be applied. The SWPPP provides controls to minimize the discharge of pollutants from the site. If the results of the monitoring at this site show water quality issues resulting from the construction project the division will determine how to proceed and will modify the permit if necessary. To our best understanding, concrete will be hauled in to the site. If the permittee decides to establish a concrete batch plant at the site, they will have to obtain coverage under the General NPDES Permit for Discharges of Storm Water Runoff and Process Wastewater Associated with Ready Mixed Concrete Facility, Permit Number TNG110000.

- 11. Comment:** **Since there is concern about the status of the stream and that water quality standards do not allow the deposition of solids on the stream bottom it would be useful if the permittee were required to sample benthic macroinvertebrates (EPA Rapid Bioassessment methodologies) on a quarterly basis for the duration of the permit.**

What studies should be conducted to thoroughly understand the receiving streams properties (including the Hiwassee) and how the construction project could impact water quality?

Response: The division has added a requirement that the permittee conduct biannual biological monitoring at the two instream monitoring station locations, LCU and LCD, to

determine the biological impact of its stormwater discharges on the receiving stream(s). This project is several miles away from the Hiwassee and there is negligible chance of this project having any effect on the Hiwassee.

12. Comment: **This permit should contain procedures to prevent the discharge of flocculants to the receiving waters.**

CMAA plans to use polyacrylamides ("PAM") to flocculate sediments from the stormwater discharges. If used correctly, PAM can reduce turbidity to below 10 NTUs and not cause adverse effects in the aquatic environment. However, there are no requirements in either the permit or the SWPPP to indicate what procedures would be utilized to ensure that these toxic chemicals do not escape from the flocculation ponds into the receiving waters. Neither is there any evidence in either the permit or the SWPPP that these toxic chemicals would not harm the receiving waters.

Response: The biannual biological monitoring will serve as an indicator of the influence of PAM on the aquatic life of the receiving stream. In addition, the permit contains a requirement that:

The permittee shall develop and submit to the Chattanooga EFO information regarding the specific planned uses of polymers (including polyacrylamide, i.e. PAM, and flocculants) at the construction site for approval prior to their use. Information shall include the names of the polymers that will be used, material safety data sheets (MSDS) for those polymers, amounts of polymers, method of polymer use (i.e. broadcast spreading, block or log forms, emulsions, etc.), and details describing the site locations where polymers will be placed. All polymers shall be mixed and/or applied in accordance with Occupational Safety and Health Administration (OSHA) MSDS requirements and the manufacturer's recommendations for the specified use conforming to all federal, state, and local laws, rules, and regulations.

13. Comment: **The permit should include numeric limits for nutrients.**

Effluent limits for nitrogen and phosphorus must be included. Vegetation establishment using fertilizer applications is one of the most common forms of soil stabilization on construction sites. Research has clearly shown nitrogen and phosphorus runoff from hydro-seeding can be a major contributor to nutrient loading into surface waters.

Further, the past and present use of the property as farmland and pasture has likely enriched the soils with nutrients that would be discharged with sediment into the streams.

Response: A requirement to perform soil analysis prior to the application of fertilizer was added to the permit. The following narrative requirement was added to subpart I.A. of the final permit:

“Soil analysis must be performed prior to the application of fertilizer to any portion of the site. Soil analysis shall include soil pH, buffer value, phosphorus, potassium, calcium, magnesium, calculated CEC and base saturation at a minimum. Soil samples should be representative of the area for which fertilizer will be applied. Sample type should be composite and should be collected in accordance with the guidance provided in the University of Tennessee Extension “Soil Testing” brochure PB1061, available at: <http://extension.tennessee.edu/publications/pbfiles/PB1061.pdf>. Soil analysis results shall be used to determine correct fertilizer application rates to prevent the over-application of fertilizer to the site.”

- 14. Comment:** This permit was incorrectly (public) noticed. Another hearing should be held, following proper public notice procedures and allowing for a 30 day comment period. The division received related comments, that the public did not have a chance to review the correct documents before the public hearing.

Different versions of the draft permit were distributed.

Response: On August 17, 2009 the division sent a memo to Cleveland Municipal Airport public hearing participants and interested parties that stated, in part:

Participants at the public hearing pointed out that different versions of the draft NPDES permit, number TN0080934, and its associated storm water pollution prevention plan (SWPPP) were distributed prior to the public hearing. Therefore, the division is making the final draft permit and the latest version of the SWPPP available and extending the comment period until September 16, 2009.

At that time, the division sent the memo recipients a copy of the final draft permit and notified them of how they could obtain a copy of the latest version of the SWPPP.

- 15. Comment:** The division received several comments in support of the proposed airport and encouraging the division to issue the proposed NPDES permit.

One commenter said that, I appreciate that hearings are determined based on facts. Generally only the opposed, paid professionals and supporters show up. I had no problem getting a copy of the plans from the city and they looked fine.” They recommended that the permit was issued.

Response: We appreciate all comments received during the public notice period. Our decision regarding permit issuance is ultimately based on protection of designated uses of receiving stream(s), rather than public support of any particular project.

- 16. Comment:** The public hearing notice should have referenced the dates of previous public notices relating to the permit, and the date, time and place of those hearings, per TDEC Rule 1200-4-10-.03 (g)(2)(5)(v). This would include the ARAP permit and the UIC permit.

Response: TDEC Rule 1200-4-10-.03 (g) (5) (v) refers to Notice of NPDES General Permits. The proposed permit is an individual NPDES permit and subject to the public notice requirements of TDEC Rule 1200-4-5-.06, which were followed.

17. Comment: What systems will be in place to ensure the compliance of the BMPs and other SWPPP objectives to ensure no adverse impacts to the receiving streams, wells, community, etc. occurs?

A neutral third party should be required to audit the construction site on a weekly basis, 2-times per week, and during a rain event (monthly) to audit and certify BMPs are kept per latest Tennessee code.

It is not logical to require a professional engineer, geologist or landscape architect to do inspections.

Response: The permit contains requirements that the site is inspected at least twice every calendar week. Inspections shall be performed at least 72 hours apart. *“Inspectors must have successfully completed the “Fundamentals of Erosion Prevention and Sediment Control” course, or an equivalent course for individuals involved in land-disturbing activities which provides a working knowledge of erosion prevention and sediment controls. An engineer that prepared the drainage and structure design portion of the SWPPP may also conduct the required inspections. A copy of the certification or training record for inspector certification should be kept on site.*

A professional engineer, a professional geologist, or a landscape architect, licensed in the State of Tennessee, with either responsibility for the design of the SWPPP or familiar with the overall design and SWPPP, must perform an inspection once per week at the Cleveland Municipal Airport project site. The inspection must meet the requirements of subsection IV.D.8.b.” of the permit.

The permit further details that the qualified inspector, as stated above, must inspect all disturbed areas of the construction site and all outfalls and their structures. In addition, the division will perform periodic inspections at the site to ensure compliance with the requirements of the permit.

The division cannot defer its responsibility to ensure compliance with the Tennessee Water Quality Control Act and to protect water quality to a third party.

18. Comment: The permit should include a penalty fee structure.

Response: Enforcement is handled by the division’s Enforcement & Compliance section. The division’s enforcement process is separate from permit requirements to help ensure due process during any enforcement action.

Penalties for violating the terms and conditions of a permit and/or the Water Quality Control Act are assessed on a case by case basis according to the actual or potential environmental harm that has resulted in each instance. The Water Quality Control Act authorizes the department to assess up to \$10,000.00 per day, per violation, according to those conditions.

19. Comment: In 1987, Congress amended the National Trails System Act to authorize and establish the Trail of Tears National Historic Trail (NHT), extending from the historic Cherokee Nation to Oklahoma, as a component of the National Trails System (16 U.S.C. 1244 (a)(15)). The Trail of Tears National Historical Trail, and specifically Rattlesnake Springs area (approximately 1.5 miles from the proposed airport), has the potential to be adversely impacted from the proposed action of airport development and water runoff discharge areas in the Chatata Valley. Consideration needs to be made regarding the potential impacts to the historic cultural resources associated with the Trail of Tears NHT.

Response: The construction of the Cleveland Municipal Airport will not change the history of Rattlesnake Springs nor affect the cultural value of the history of the Trail of Tears NHT or Rattlesnake Springs.

The division required the addition of a sediment basin in the northwest portion of the site that will drain towards Rattlesnake Springs which will allow the division to monitor the quality of stormwater that is discharged to Rattlesnake Springs. The effectiveness of the SWPPP and the BMPs being used at the site will be evaluated after the results of the required monitoring has been submitted. At that time, should the results so dictate, the division maintains the authority to institute specific numeric limitations for the monitored parameters or other appropriate control measures.

20. Comment: The division received several questions/comments regarding the Environmental Assessment (EA), including:

- The EA does not adequately address all of the environmental concerns from this development.
- The use of federal funds on this project necessitates that the Airport Authority follow the National Environmental Policy Act (NEPA), which includes the performance of an Environmental Impact Statement.
- Did the EA use ground penetrating radar on 100% of the property?
- How much of the NPDES permit process relied on information gathered during the environmental site assessment, documented in the EA?
- Was the EA adequate to base permitting decisions on?
- Did the EA use approved scientific methods for its conclusions?
- Did the EA use approved sample collection methods?
- Are the studies that were conducted in the EA sufficient and valid enough to support the permitting of the injection wells?
- The EA states that it falls under the significant impact survey of prime farmland. The rating was based on the site actually being developed and not on the impacts to the farmland located around the site.
- It states that there are no socioeconomic impacts from the proposed plan and no mitigation is required. But, several residents, namely farmers, are likely to be impacted due to zoning changes.
- The EA wrongly refers to proposed stream impacts and cattle access to Little Chatata.

- **The EA refers to stream mitigation. Why is the stream being located not mitigated?**
- **Could you require an EIS (Environmental Impact Statement) to be performed by the consultants? This would answer a lot of questions that the community still has about this project.**
- **I don't believe that a FONSI was the proper decision, we believe that the airport will impact us in many ways...**
- **The EA was done in 2007 and a lot of things have changed in the two years since it was performed. We need to be made aware of the changes and how we all will be affected.**

Response: We understand these concerns and appreciate their relevance in relation to the proposed airport project. However, FAA requirements for an EA/EIS lay outside our regulatory jurisdiction. The FAA may be contacted at the following address regarding questions about the EA:

Phillip Braden, Manager
Federal Aviation Administration
Memphis Airports District Office
2862 Business Park Drive, Bldg. G
Memphis, TN 38118-1555
(901) 322-8180

21. Comment: According to FAA guidelines, an airport is not compatible with a water treatment plant, yet there is one adjacent to the proposed site. Consequently, an exemption was granted to the Cleveland Airport Authority. It is already a less than ideal situation, but the FAA or State of Tennessee or both have already agreed to overlook that.

Response: We understand these concerns and appreciate their relevance in relation to the proposed airport project. However, FAA requirements lay outside our regulatory jurisdiction. The FAA may be contacted at the following address regarding questions about FAA requirements:

Phillip Braden, Manager
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22. Comment: The three water samples which PDC is using for their baseline comparisons were taken after spillages from the wastewater treatment facility. Shouldn't the samples be taken on days where the sample has not been compromised by a leak at the nearby sewer plant?

Response: Construction activity should not be a source of *E. coli* so obtaining a baseline of *E. coli* in the receiving stream was not necessary for this permit.

23. Comment: The plant where I work manufactures aerosol products. We have a tank farm that has 4 -30,000 gallon tanks of propellant, and 2-20,000 gallon alcohol tanks.

The plant is near where the airplanes will take off, approximately 0.25 mile or less. Does the FAA allow for an airport to be in the flight path of this kind of plant?

Response: We understand these concerns and appreciate their relevance in relation to the proposed airport project. However, FAA requirements lay outside our regulatory jurisdiction. The FAA may be contacted at the following address regarding questions about FAA requirements:

Phillip Braden, Manager
Federal Aviation Administration
Memphis Airports District Office
2862 Business Park Drive, Bldg. G
Memphis, TN 38118-1555
(901) 322-8180

24. Comment: What methods of study were used to study the geological aspects of the property to thoroughly understand the impacts to water quality? Were those methods adequate for this type of construction? Was ground penetrating radar, drilling, or any other methods used?

What soil studies were conducted to thoroughly understand the properties and the dynamics of soil conditions on water quality and changes throughout construction?

Response: The applicant submitted three geotechnical studies as part of the ARAP permit application process. The geotechnical studies were used to determine if the relocated stream channel was being moved to an appropriate location. The geotechnical studies are available in the Chattanooga EFO for review.

In addition, Airport Authority obtained a NRCS Soils Resource Report which details the soil types present on the site and the properties of those soils.

25. Comment: There are unevaluated water resources on the proposed site which would very possibly be impacted by these construction activities. We request a geological survey be conducted by the Division in order for this and all applicable permits to encompass and address potential water resource impacts.

The division also received a comment that the environment around the airport site and throughout the Chatata Valley is fragile. The subsurface is composed of limestone caverns that are quick to erode leaving the top layer of earth very unstable. Common to this area are numerous natural springs, sink holes, wetlands, and aquifers. Within a two mile radius of the proposed airport there are 12 natural springs and there are numerous springs within five miles of the proposed project.

Response: The division does not know of any unevaluated water resources on the site at this time. As new water resources are identified the division will have to be notified and the SWPPP modified as necessary to adequately address the protection of those resources.

As part of the ARAP permit process – permit number NRS08.237, issued on August 17, 2009 – all visible water resources on the site were identified. In addition, the ARAP permit requires that certain procedures are followed to help capture and preserve contributions from potential springs and seeps within the Little Chatata Creek channel and the channel of the unnamed tributary.

26. Comment: Another matter is the old Bendix dump site on 20th Street. While this has been listed as a hazardous waste dump by the EPA, the leakage might still be running into the stream system in the eastern part of the county and so the water quality should be regularly checked for toxic pollutants including herbicides, pesticides, oils, heavy metals, etc.

Response: The Bendix dump site, which is currently an active and open landfill, is currently regulated by the Division of Solid Waste Management under Industrial Landfill Permit Number IDL060000040.

27. Comment: The present airport is sufficient for the amount of air traffic around here. Medical helicopters take off and land at the hospitals. Other air traffic is small in number.

The Chattanooga airport struggles, now we will supposedly pull flights from Chattanooga – even if only 1 or 2 – what financial impact will this have on an already struggling airport?

Response: The division understands these concerns and appreciates their relevance in relation to the proposed airport project. However, these issues lay outside our regulatory jurisdiction.

28. Comment: I do not believe Little Chatata is impaired for Nitrate/Nitrite. It is impaired for E. coli. The sources include "Discharges from MS4 Area and Pasture Grazing".

Response: You are correct. In the draft permit/rationale we mistakenly listed the receiving stream as not supporting the “*fish and aquatic life designated use due to sedimentation/siltation, alteration in stream-side or littoral vegetation, nitrate/nitrite, and total phosphorus from grazing in riparian or shoreline zones and non-irrigated crop production.*” The receiving stream is actually listed as not supporting the fish and aquatic life and recreation designated uses due to alteration in stream-side or littoral vegetative, sedimentation/siltation, and Escherichia coli due to discharges from MS4s and grazing in riparian or shoreline zones.

29. Comment: Has due diligence of the site been completed? If not how does a negative finding impact the SWPPP?

Has a sufficient search been completed for USTs (underground storage tanks)? Could a UST impact water quality?

Response: The division does not know of any negative findings of due diligence reports and thus no changes have been made to the contents of this NPDES permit. Should the

division become aware of any negative findings then we would require the Airport Authority to modify their SWPPP to appropriately address the negative finding. See also the response to Comment 3 above regarding the Airport Authority's responsibility to inform the division of any relevant information, regarding effects on the receiving stream and water quality.

USTs are a serious concern for water quality and TDEC has a division dedicated to remediation/regulation of USTs. If USTs are discovered during construction the division will require modification of the SWPPP as appropriate.

- 30. Comment: Has the FEMA Flood Plain been updated or is it current? Does the Flood Plain data have an impact on water quality?**
- Response: This is outside of our regulatory jurisdiction. Contact FEMA at (800) 621-FEMA or on their website at www.fema.gov, or the Cleveland / Bradley County Emergency Management Agency at (423) 728-7289 or online at <http://www.bradleyco.net/emahome.aspx> to obtain more information on Flood Plain issues.
- 31. Comment: Why was the storm water notice posted on July 10, 2009 at Tasso & Dry Valley Rd. when the plan wasn't completed? Why was the notice not located at a busier intersection?**
- Response: Given the amount of publicity that this permit has received and based on the amount of input that the division has received on the draft permit the division believes that the information on the proposed permit action reached the intended audience. The division has no indication that the notice was posted at an inadequate location.
- 32. Comment: Why was the NOI (Notice of Intent) not in the plan? We would like copies of the certified mail/return receipts showing timely delivery of the NOI.**
- Response: An NOI is only used for coverage under the CGP and not required for an Individual permit. As was stated in the Administrative record at the beginning of this document, the permit application was received May 11, 2009.
- 33. Comment: We would like the bid package to include a statement requiring a "substantial" fine, to be paid to the landowners surrounding the site, to the contractor and sub contractors for any violations of storm water BMPs or any impact to water quality, including wells.**
- Response: The permittee will have full responsibility for any noncompliance, violations, and pollution from this construction project. Any nuisance to adjacent landowners resulting from the construction activities needs to be addressed through civil litigation.
- 34. Comment: A weekly meeting should be held for the public to discuss BMPs, water quality, construction, etc.**

The city of Cleveland should notify the public, via publication in the local newspaper, of any BMP violations. A weekly update of water quality check should also be included.

Retention pond water quality should be monitored and tested weekly by a third party to ensure treatment measures are adequate and working.

A follow-up public hearing should be held to educate people on water quality, karst structures, caves, aquifers, etc.

Response: The public may always review the division's records during normal business hours by appointment. Information/education/status meetings would not be a beneficial use of the division's resources. The division encourages the Airport Authority to be transparent with any issues at the site.

Sediment basins are used on the site as stormwater retention ponds. A sediment basin is used to retain runoff waters and trap sediment from disturbed areas to protect properties and waters below the installation from damage by excessive sedimentation and debris. The water is temporarily stored and the bulk of the sediment carried by the water falls out of suspension and is retained in the basin, while the water is slowly released over a period of time.

Detention ponds are stormwater management practices used to protect against flooding and, in some cases, downstream erosion by storing water for a limited period of a time. Monitoring of detention pond water on a weekly basis is would have no meaning or relevance in this permit. Monitoring of retention pond is relevant only at time of discharge.

35. Comment: How will ground vibration, such as from trains, earth moving equipment, blasting, and aircraft landings, impact the construction of steep slopes, stormwater basins, and karst structures?

Response: No aircraft landings will take place during construction (during the course of this permit). We do not have any indications that ground vibrations will impact the construction of steep slopes, stormwater basins, and karst structures.

36. Comment: Who has the authority to issue a stop work order and how is it applied? What conditions, related to water quality, trigger one?

Response: The Bradley County MS4 ordinance, Bradley County Stormwater Management Policy, Oct. 18, 2004, section 9(2)(e) Cease and Desist Orders and stop work authority. You may contact the Bradley County stormwater department at:

Ms. Sandra Knight, County Engineer
(423) 728-7107
sknight@bradleyco.net

37. Comment: Was dye tracing conducted to study water flow to the City water supply?

Response: The Hiwassee Utility District has a water treatment plan (WTP) on the Hiwassee (which gets its source water from the Hiwassee) and a second one adjacent to the airport property (which gets its source water from groundwater). The Utility District combines the water from the two plants. There have been no dye traces to the division's knowledge.

38. Comment: How will sediment removal from sediment controls be managed (where will it be dumped, will it impact water quality, etc.)?

Response: Sediment removed from sediment controls will be disposed of in areas away from drainage ways, surrounded by silt fencing, and stabilized. There should be no impact to water quality from this sediment.

39. Comment: Should the permit include a background outfall to monitor the discharge from Duracell and to determine how their discharge could impact the water quality at the construction site?

Response: Duracell's process water discharge goes to the sanitary sewer. Duracell is a hazardous waste generator (TDEC Division of Solid and Hazardous Waste Permits: TNR000007161 and TND000648527) and a Superfund site (TDEC Division of Remediation Superfund Site #06505).

Duracell's industrial stormwater runoff is regulated by the division's Industrial Multi-Sector permit, permit coverage number TNR053648 and the facility is in the South Mouse Creek watershed and does not have any drainage into Little Chatata Creek. Therefore, there shouldn't be any effect on the water quality of construction stormwater runoff from the Airport by Duracell.

40. Comment: Drawing EC3 does not show a drainage map of 30 acres. Please verify and explain.

Response: Drawing EC3 is not a drainage map. It is the overall final stabilization plan for phase I. EC2 is the overall pre-construction drainage map for the site. Temporary sediment basin 3 is the only 30 acre feature at the site. It is created when the Old Tasso road is removed. It includes drainage from the part of what will be a runway, once the construction is complete.

41. Comment: The SWPPP should include a copy of the management plan for spills, equipment repairs, etc. It should also include a management plan for used vehicle batteries, site trash, site debris, and equipment. The SWPPP should include requirements that spill kits, in adequate number, are available on site. It should also direct how the kits will be managed to ensure they are adequate, properly stocked, etc. Many items in the SWPPP are repeating permit language rather than providing an actual plan for meeting the permit requirements. The SWPPP should be revised to include specific plans for meeting the different permit requirements.

Response: Section 3 of the SWPPP, Good Housekeeping BMPS, beginning on page 17, provides details information on "Material Handling and Waste Management" (solid

wastes, hazardous materials and wastes, pesticides and fertilizers, petroleum products, detergents, and sanitary waste), “Establish Proper Equipment/Vehicle Fueling and Maintenance Practices”, “Control Equipment/Vehicle Washing”, “Spill Prevention and Control Plan”, and “Allowable Non-Stormwater Discharge Management.”

42. Comment: Has specific difference been established for the change in water quality for turbidity, flow, and suspended solids?

Response: We do have monitoring requirements, but did not establish limitations. No numeric limitations on turbidity or TSS were included, but biological monitoring was included at an upstream and downstream location, see the Response to Comment 12 above.

43. Comment: What endangered species of fish exist in the Little Chatata, if any? How will negative water quality impact this?

Response: The division reviewed the information contained in the Division of Natural Resources database and found no endangered fish in Little Chatata.

44. Comment: The permit should include monitoring requirements for oil and grease due to the large amount of heavy equipment that will be used on site.

Response: The permit includes a monthly requirement for visual observations. It requires that no floating material should be present; nor color, foam or oil sheen allowed. Results shall be reported on the DMR with an explanation in the comments section for visible materials.

45. Comment: The proposed airport is not in a good location. In addition to a year-round spring, a creek runs along Michigan Avenue and the runway will be parallel to a railroad track. Where will all of the site runoff go?

Response: The current construction plans contained in the SWPPP explains how stormwater will be routed post-construction.

46. Comment: Any flooding damage that is caused by the construction, by the injection well(s) or change in flow from the construction and finished construction should be repaired at the expense of the City of Cleveland and its contractors for this project.

Response: We will enforce this permit and the TWQCA, but any other damages must be addressed in through the civil court litigation.

47. Comment: What volume of water will be generated from the construction site? Is the retention adequate? Will the risk of flooding in the area/community increase as a result of this construction project?

Response: The amount of stormwater generated from the site will vary based on the size of the rain event. The stormwater retention sediment basins are designed to contain the

rainfall and runoff from a 5-year, 24-hour rainfall event (4.7 inches of rain). The sediment basins are designed by nature to help prevent flooding by keeping water on the site for a longer time.

48. Comment: What control measures are in place to minimize the negative consequences of an upset, a breach of a retention pond, sediment basin, holding pond, and all other water bodies used to hold water during construction?

Response: In addition to sediment basins, sediment traps are utilized in drainage areas contributing drainage from less than 5 acres of drainage. Erosion control matting will be utilized on the banks of the sediment basins. Fair cloth skimmers (floating skimmers) are being used as part of the outlet structure of the sediment basins to help ensure that the water discharged is not only clean, but also to regulate the flow rate from the outlets. All of the sediment basins have emergency spillways to prevent breaching of the berms.

49. Comment: How will post-construction stormwater runoff be managed? Will there be an increased risk of flooding in the area?

Response: Post-construction stormwater management is designed to release the water at the rate that would have occurred during pre-construction site condition, so there should not be an increased risk of flooding in the area from this construction site

50. Comment: Bids are already being requested, how is the scope of work accurate when the permit/SWPPP may change based on this Public Hearing?

Response: The division has no role in the bid process and it lies outside of our regulatory jurisdiction. It is up to the selected contractor and the Airport Authority to ensure that all of the requirements of the permit and the SWPPP (which will be modified as necessary) are complied with. Unforeseen conditions/site changes are routine happenings in construction projects and construction documents provide contingencies for this very reason. In addition, the Airport Authority knows that the SWPPP is a living document and changes will be required throughout the course of the project as site conditions change.

51. Comment: How will “riparian” zones or areas be maintained during construction to avoid negatively impacting water quality?

Response: Sheet SR-5, “Stream Relocation – Phase 1 & 2 Erosion Control Plan” indicates a 60-foot buffer on the existing Little Chatata Creek with a double row of wire-backed silt fence. Erosion control notes 12 and 13 also indicate that no construction will take place in the buffers and that stream buffers shall be preserved in a natural state except where disturbance is allowed. Stream buffers shall be established along with silt fence, construction entrance(s) and other perimeter BMPs prior to other construction activities at the site.

52. Comment: Does altering the stream (use of a culvert) pose a risk to fish, ecosystems, fish habitat, etc., due to potential harmful alteration of substrates, loss of riparian habitat, destabilization of streams banks and channels, and the release of

excessive sediment from flows? Has this been considered and is it an acceptable risk?

Response: ARAP permit NRS08.237 addresses how the design of the new channel, culvert encapsulation and so forth were designed to ensure that they did not pose any risk to fish and aquatic life and also prevented any risk of water undercutting these features.

53. Comment: What are the negative consequences of “urbanization” on water quality, specifically altering a stream? Have the following issues been addressed regarding both construction effects and post construction impact on drinking water supply: peak runoff, increased pollutant loadings, issues of first flush, erosion, spillage, etc.?

Response: The ARAP permit, NRS08.237, considered the effects of stream alteration in its permit decision and has determined that there should not be any negative consequences if the permit requirements are complied with. The Cleveland and Bradley County MS4s are in charge of the post-construction component to minimize the effects of urbanization on water quality.

54. Comment: The draft permit rationale is lacking in detail and does not contain information from the proposed EPA effluent guidelines for stormwater discharges from construction sites. The proposed EPA effluent guidelines should be followed; they will provide TDEC a defensible basis for permit requirements.

Response: The proposed guidelines have not gone through the administrative process required for those guidelines to become enforceable. Applicability of those guidelines may be revisited once they are finalized. In the meantime, the division has to use current rules and regulations to protect the designated uses of the receiving streams.

55. Comment: The SWPPP does not detail the additional steps that will be taken to prevent sediment from leaving the site.

Response: Chemical treatment, fair cloth skimmers, up and downstream monitoring, biannual biological monitoring and other structural controls are being used to prevent sediment from leaving the site. In addition to the controls listed in the SWPPP, the permit will impose additional limits and monitoring requirements that will be implemented in the SWPPP once the permit is issued.

56. Comment: EPA application 2F is not correctly completed. The application states that there will be no discharges to waters of the US after the project is completed. It seems inconceivable to me that there would be no SW discharges from the completed airport facility. Further, there are no monitoring data listed in the tables of 2F, instead it is indicated that the tables are N/A. Later there are pages of data presented. However, the sampling reported does not appear to be from discharges into the receiving stream from the subject property.

Response: This permit authorizes discharges of stormwater runoff associated with construction activities. Once construction is complete this permit may be terminated. Any

discharges of stormwater runoff associated with industrial activities may be covered under a separate permit.

57. Comment: Why was an individual permit applied for instead of coverage under the General Construction Permit?

Response: The Airport Authority needed to disturb more than 50 acres of land at a time and therefore were not eligible for coverage under the CGP.

58. Comment: US EPA is strongly urging stormwater managers and permits throughout the country to incorporate Low Impact Development (LID) requirements, including that post construction runoff should not exceed pre-construction runoff. Because the receiving stream is impaired it would be useful if LID requirements were incorporated into this permit.

Response: We encourage all construction activities that eliminate or minimize impacts to the receiving stream. In addition, the proposed permit states, in part: *“The SWPPP shall include a description of measures that will be installed during the construction process to control pollutants and any increase in the volume of storm water discharges that will occur after construction operations have been completed.”*

59. Comment: Road sweeping should be required to reduce the tracking of mud and dirt onto public roadways by construction vehicles.

Response: The permit states, in part: “Off-site vehicle tracking of sediments and the generation of dust shall be minimized. A stabilized construction access (a point of entrance/exit to a construction site) shall be described and implemented, as needed, to reduce the tracking of mud and dirt onto public roads by construction vehicles.”

60. Comment: The requirement for a PE to approve all changes to the SWPPP is over regulation because of the large number of changes to a SWPPP on a project of this size. However, it should be well noted that a PE is required to approve calculations and basin sizing changes.

Response: The permit requires, *“Any modifications to sediment controls involving structural, hydraulic, hydrologic or other engineering calculations shall be prepared by a licensed professional engineer in accordance with the Tennessee Code Annotated, Title 62, Chapter 2 (see subpart I.C. above) and the rules of the Tennessee Architectural and Engineering Examiners Board.”*

61. Comment: Does the City Manager meet the signature requirements of the SWPPP and permit application?

Response: To the best of our knowledge of the structure of the city government the city manager was an appropriate signature.

62. Comment: The SWPPP does not include provisions for sandblasting grit to be properly handled.

Response: To the best of the division's knowledge there will not be sandblasting performed during the construction of the airport. Should sandblasting occur during the course of construction the SWPPP will have to be modified to include it.

63. Comment: Is an SPCC plan required?

Response: Anywhere there is large construction activity occurring there will generally be a fuel tank for the construction equipment on the site. Appropriate controls are required to be in place to ensure that any fuel spills are properly handled.

The division has no authority to require an SPCC plan. EPA Region IV has regulatory authority over SPCC plans; they may be contacted at:

EPA, Region IV
Bob Rosen
(404) 562-8761

64. Comment: The permit does not allow detergents in vehicle wash water yet these are allowed in the SWPPP (page 18).

Response: The SWPPP states: "*If detergents must be used on site, the contractor shall be required to submit material safety data sheets (MSDS) for those detergents to the Division of Water Pollution Control for approval under this SWPPP and make any necessary revisions to the SWPPP documentation prior to their use.*"

65. Comment: Where is the rain gauge located?

Response: Once construction begins the permittee will be required to maintain a rain gage on site. Rain gages are generally located near the on-site construction headquarters (construction trailers).

66. Comment: This permit will violate Tenn. Code Ann. § 69-3-108(e) by causing a condition of pollution. It will fail to incorporate the most stringent effluent limitations necessary to implement applicable water quality standards, and will not comply with federal laws and regulations.

This is also a violation of Rule 1200-4-5-.06(f) and (g) which requires TDEC to prepare a Rationale that includes:

(f) Any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions including a citation to the applicable effluent limitation guideline, performance standard, reasons why they are applicable or an explanation of how the alternate effluent limitations were developed;

(g) When the draft permit contains any of the following conditions, an explanation of the reasons why such conditions are applicable:

- 1. Technology-based limitations to control toxic pollutants;*
- 2. Limitations on internal waste streams;*
- 3. Limitations on indicator pollutants; or*

4. Limitations set on a case-by-case basis;

Response: The proposed guidelines have not went through the administrative process required for those guidelines to become enforceable. Applicability of these guidelines may be revisited once they are finalized. In the meantime, the division has to use current rules and regulations to protect the designated uses of the receiving streams.

We are not allowed to issues permits that will cause a condition of pollution. Using EPA's presumptive approach, which is applying BMPs, is equally protective of the receiving stream as establishing effluent limitations

67. Comment: The draft permit does not provide for the implementation of the Pathogen TMDL for the Hiwassee River Watershed (HUC 06020002).

The land upon which the airport would be constructed has been long used (and is still being used currently) as farm fields and pasture land for cattle. The soil is likely to contain coliform bacteria from this use and discharge of sediment from this site would increase the bacteria loading of the Little Chatata and Chatata Creeks.

Response: Microbiologists have said that coliform bacteria will generally not live outside of the host for longer than 18 hours. Therefore the Pathogen TMDL does not need addressed in this permitted activity.

68. Comment: TDEC and the Airport Authority have not conducted an analysis of reasonable alternatives and have not demonstrated that "lowering water quality is necessary to accommodate important economic or social development in the area in which the waters are located."

Response: The airport authority did an EA and looked at alternatives in the resulting document.

As a result of these construction activities we are not proposing degradation of the receiving waters and lowering water quality. The magnitude, frequency, and duration of any impact from construction will not cause degradation.

69. Comment: The SWPPP was not prepared for this individual permit.

The SWPPP states that it has been drafted for a Construction General Permit ("CGP") instead of stating that it was drafted for individual permit No. TN0080934. The individual permit requirements mandate a SWPPP written specifically for the individual permit.

Response: The division doesn't recognize differences between SWPPPs for CGP versus individual NPDES permits. We just recognize differences in SWPPPs that are protective of designated uses of the receiving stream. We think that the SWPPP that has been prepared for this construction project is protective of designated uses of the receiving stream.

70. Comment: Existing storm water management drains are currently operating near maximum capacity. One of the largest residential communities in the area, virtually across the street from the proposed airport site, is already threatened with isolation when heavy rains overpower existing storm drains. Any activity that adds additional drainage requirement, such as an airport and its associated facilities, or limits existing capacity, such as changing the normal flow, will negatively affect the entire geographic area in many different ways.

There exists and is planned very inadequate capacity for storm water management if airport complex and facilities are created and operated at the site proposed.

Industrial pollution, whether released by permit or accident, already has saturated the current water flow system. Increased industrial drainage from an airport and its facilities, tenants, fuel and lubrication management, operations, and businesses will have such a negative weight on the existing balance as to threaten health and safety. The existing, and proposed, storm management and water flow management system cannot accept such further imposition of waste runoff.

Response: Construction stormwater controls and post-construction stormwater controls are designed to mitigate any impacts from decreased infiltration of stormwater. See also the response to Comment 53 (negative consequences of urbanization). Contact the City of Cleveland and Bradley County MS4s regarding post-construction stormwater management:

Bradley County MS4:
Ms. Sandra Knight, County Engineer
(423) 728-7107
sknight@bradleyco.net

City of Cleveland MS4:
Jonathan Jobe, Stormwater Program Manager
(423) 472-2851
jjobe@cityofclevelandtn.com

71. Comment: Current plans call for "relocating" natural elements (wetlands) to another location. Wetlands' ecosystems cannot be relocated by digging a new hole, filling it with water, and destroying the previous habitat. Existing natural wetlands, and their residents and transitory visitors, will be destroyed and killed.

Response: The relocation of wetlands was addressed in the ARAP permit, NRS08.237, and Notice of Determination.

72. Comment: How could the bill sponsored by Rep. Joe McCord and Sen. Lowe Finney, which allows that someone in compliance with their permit can not be sued for damages if they harm you, negatively affect the Cleveland area with the

contamination that the airport is intending to inject in their storm water injection wells?

Response: We would be speculating about what would happen since this is a proposed bill and not a final one.

73. Comment: The airport runway is outside of the Bradley County MS4. Therefore the Commission in the airspace zoning zoned the waters outside of their MS4 and have gone outside of their jurisdiction. Does TDEC monitor this or does the EPA, since the agreement was with the EPA and Bradley County?

The county commission didn't approve zoning, as of the date of the public hearing; based on this I don't understand why we are having this hearing. Additionally, the secretary of transportation overrode the NPDES permitting and gave the city of Cleveland the right to regulate water.

Response: The ordinance has a provision that the county commission can control water and land use in the five-mile radius around the airport. These issues are outside of our jurisdiction and the City of Cleveland and Bradley County MS4s along with the FAA should be contacted regarding these issues:

Bradley County MS4:
Ms. Sandra Knight, County Engineer
(423) 728-7107
sknight@bradleyco.net

City of Cleveland MS4:
Jonathan Jobe, Stormwater Program Manager
(423) 472-2851
jjobe@cityofclevelandtn.com

Phillip Braden, Manager
Federal Aviation Administration
Memphis Airports District Office
2862 Business Park Drive, Bldg. G
Memphis, TN 38118-1555
(901) 322-8180

74. Comment: One commenter requested that the division include in the public record the article, "Up, Up or Away" by Allison Gorman. The article describes some of the history behind the existing airport and the new airport project and includes input from airport proponents as well as information on opposition to the project. Full text of the article is available at: <http://businessstn.com/content/up-up-or-away>.

Response: A copy of the printed article will be kept in the administrative file of this permit.

75. Comment: One commenter stated that the reason that we have public hearings is to allow for third party appeal. They will probably appeal the permit if issued.

Response: Our rules allow for third party appeal. While not connected to having a hearing, participation in a hearing (by attendance) or submission of comments regarding the proposed permit allows for appeal, see TDEC Rules 1200-4-5-.12.

76. Comment: Is it creating a bird strike hazard to have a SW pond? Is anybody coordinating with FAA? Are they dependent on PDC and TDOT? Are we (TDEC) going to do due diligence to make sure that a hazard isn't created?

Response: Sediment basins (also referred to as retention basins, or wet basins) will be used only during the construction phase of this project. The airport will not be active, i.e. there will be no airplane activity, during this phase. The post-construction basins (i.e. detention basins) are designed to dewater within 48 hours so as not to attract wildlife. The FAA may be contacted at the following address regarding questions about FAA requirements:

Phillip Braden, Manager
Federal Aviation Administration
Memphis Airports District Office
2862 Business Park Drive, Bldg. G
Memphis, TN 38118-1555
(901) 322-8180

77. Comment: Can Little Chatata Creek have up to 20 violations a year if each NPDES permit can have overflows 5 times a year with no fines unless they can't fix the problem in a timely manner? How can TDEC allow so many permits on one creek?

Response: Discharges of construction storm water runoff associated with construction activities authorized by the proposed permit are not comparable to any past or future overflows from a sanitary sewer collection system. Any historic overflows in this area would have already shown detrimental effect on the stream biodiversity. A requirement for upstream and downstream biological monitoring contained in this permit will enable us to monitor and protect biological integrity of the receiving stream.

78. Comment: EPA expressed concerns of the proposed wetland mitigation plans and no further action was conducted.

Response: See the ARAP permit number NRS08.237 regarding wetland mitigation concerns.

79. Comment: Advisory Circular 150/5200-33b states that wetland mitigation projects must be designed so they do not create a wildlife hazard. Further, the FAA recommends that wetland mitigation projects that may attract wildlife be sited outside a five-mile radius.

Therefore, the ARAP permit should be null and void due to the mitigated wetlands being within a five-mile radius of the new airport and other wetlands located just across Michigan Avenue from proposed basin #1.

Response: ARAP permit NRS08.237 was issued on August 17, 2009.

The FAA may be contacted at the following address regarding questions about the FAA Advisory Circular:

Phillip Braden, Manager
Federal Aviation Administration
Memphis Airports District Office
2862 Business Park Drive, Bldg. G
Memphis, TN 38118-1555
(901) 322-8180

80. Comment: **The FAA Advisory Circular also states that a wildlife damage management biologist should evaluate the mitigation project. Was this done and how did TDEC use the resulting report to assist in permit decision making?**

Response: The FAA may be contacted at the following address regarding questions about the FAA Advisory Circular:

Phillip Braden, Manager
Federal Aviation Administration
Memphis Airports District Office
2862 Business Park Drive, Bldg. G
Memphis, TN 38118-1555
(901) 322-8180

81. Comment: **Another comment stated that the wetlands were going to be moved over five-miles away from the airport and that the flood mitigation that wetlands provide will be moved to a different drainage area.**

Response: See the ARAP permit, number NRS08.237, and Notice of Determination regarding the rationale for the relocation of the wetlands at this site.

82. Comment: **The two proposed fuel tanks should be contained and encapsulated as to reduce the chance that the fuel will leak and contaminate the underground drinking water. This airport should follow the federal guidelines and should require regular testing and inspections in order to minimize the environmental impacts.**

Response: All fuel tanks on site for construction will have to be properly contained and maintained to prevent pollution. Page 18 of the SWPPP details BMPs for handling petroleum products.

83. Comment: **The EA provided by PDC Consultants states there are 24 acres of trees that are 60-100 years old. The Tree Ordinance for the City of Cleveland states:**

“that the purpose of the ordinance is to promote the preservation of trees on private property, or the replacement of trees where preservation is ineffective, in order to improve the quality of development and to provide environmental and aesthetic benefits and to buffer or otherwise mitigate the effects of urbanization.”

If the Airport Authority is issued this permit that they should at least have to follow their own laws and follow the tree ordinance to the letter. This basically

states "that it is unlawful to remove so many trees." However, they should follow the replacements of the ordinance at the minimum and must pay the permit fees. This should be no problem if they really are concerned with our environment.

Response: We understand these concerns and appreciate their relevance in relation to the proposed airport project. However, these requirements are outside of our regulatory jurisdiction. The City of Cleveland may be contacted as follows regarding questions about their ordinances:

City of Cleveland
Municipal Building
PO Box 1519
190 Church Street NE
Cleveland, TN 37311
Phone: (423) 472-4551
Fax: (423) 559-3302

UIC issues


The division received several questions and comments related to underground injection control permits and related regulations. These questions and comments were forwarded to the Division of Water Supply, and will be addressed through a separate permitting decision process.

Determination

In conclusion, the comments included in this notice of determination document were compiled based on their relevance to the permit content, intent and interpretation of this permit, rather than implementation of the permit conditions (e.g. penalty evaluations, appropriateness of various enforcement measures, development of TMDLs, etc.). Those questions or comments that became a moot point as a result of the changes made in the final permit were not included in this document.

The division's decision on this matter is to issue the NPDES Permit for Storm Water Discharges Associated with Construction Activity, Permit No. TN0080934.

DATE: 9/30/2009



Vojin Janjić
Manager, Permit Section