

ATTACHMENT 2



Division of Surface Water Response to Comments

**Project: Nexus Pipeline 401 Water Quality Certification (WQC) Application
Ohio EPA ID #: 154669**

Agency Contacts for this Project

Division Contact: Todd Surrena, DSW-NEDO, 330-963-1255,
todd.surrena@epa.ohio.gov
Public Involvement Coordinator: Darla Peelle, PIC, 614-644-2160,
darla.peelle@epa.ohio.gov

Ohio EPA held a public information session and hearing on September 22, 2016, regarding Nexus Pipeline Project's 401 WQC application. This document summarizes the comments and questions received at the public hearing and during the associated comment period, which ended on September 29, 2016.

Ohio EPA reviewed and considered all comments received during the public comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health. Often, public concerns fall outside the scope of that authority. For example, concerns about zoning issues are addressed at the local level. Ohio EPA may respond to those concerns in this document by identifying another government agency with more direct authority over the issue.

To help you review this document, the questions are grouped by topic and organized in a consistent format.

Public Comments

Comment 1:

Multiple commenters expressed concerns about the proposed pipeline's route; potential impacts to property values; pipeline monitoring and safety; and petroleum industry practices.

Response 1:

The 401 WQC review is limited to potential water resource impacts from the pipeline activity. The applicant has demonstrated that the proposed project will avoid and minimize impacts to waters of the State. Minimization methods include, but are not limited to, narrowed construction right of ways; erosion and sediment controls; use of horizontal directional drilling and other slick bores; anti-seep collars; and construction Best Management Practices (BMPs).

The Federal Energy Regulatory Commission (FERC) has the regulatory authority over pipeline routing. Many agencies are involved in the regulation and oversight of the proposed Nexus pipeline project. The table below lists the agencies and their respective authorities.

Issue	Main Regulator
Air pollution	Ohio EPA Division of Air Pollution Control; U.S. Environmental Protection Agency
Eminent domain	State of Ohio laws
Noise	Local zoning organizations; Federal Energy Regulatory Commission
Property values	Local zoning organizations (town, city or county)
Siting of compressor stations and pipelines	Interstate lines (cross one or more states) – Federal Energy Regulatory Commission Intrastate gas pipelines (operate only in Ohio) – Ohio Power Siting Board Gathering lines (carry gas from a processing facility to a fractionation plant, to an interstate or intrastate pipeline) and lines carrying liquids – Local zoning Production lines (installed at the well site) – Ohio Department of Natural Resources
Safety	Interstate and liquids lines – Pipeline and Hazardous Materials Safety Administration Most Ohio pipelines – Public Utilities Commission of Ohio Production lines – Ohio Department of Natural Resources

Truck traffic	Local organizations (town, city or county); Ohio Department of Transportation
Wetlands and streams	Ohio EPA Division of Surface Water; U.S. EPA; U.S. Army Corps of Engineers
Zoning restrictions	Local zoning organizations (town, city or county)

Comment 2: **Concern for contaminated soils that may be encountered within Ariss Park.**

Response 2: Ohio EPA has reviewed the 1997 Ohio EPA soil sampling results and the 2006 City of Green soil sampling data. Neither study encountered historical industrial waste. Based on the route and historical photos, the proposed Nexus route avoids the area of concern. Additionally, the Nexus work plan states that if any unknown contamination or waste areas are discovered, the company is to contact the Ohio EPA to determine a course of action.

Comments 3: **Concerns about Ohio EPA's potential certification under either the 2012 or 2017 certification of the U.S. Army Corp of Engineers (USACE) 404 Nationwide Permit (NWP).**

Response 3: The 2012 NWP has been replaced by the 2017 NWP after Nexus submitted a 401 WQC application to Ohio EPA. Ohio EPA is reviewing this project under the current 2017 NWP. The information in the initial Nexus application submitted provides a sufficient baseline for Ohio EPA to consider the proposed wetland impacts. Ohio EPA incorporates any new information submitted since the original application, as appropriate. All stream and wetland crossings will be evaluated under the 2017 process.

Comment 4: **An alternate optimized route was developed by the City of Green with fewer impacts than those proposed by NEXUS. This route was submitted pursuant to the FERC Environmental Impact Statement (EIS) process. Green has requested that Ohio EPA evaluate their alternative route.**

Response 4: The FERC EIS process is a comprehensive evaluation of alternatives and impacts related to the project routing. Their

process not only evaluates water resource impacts, but also socioeconomics, geology, land use and overall cumulative impacts. Due to their extensive process, Ohio EPA relies on the FERC decision for pipeline routing. Ohio EPA further evaluates the chosen route, to determine additional water resource minimization or avoidance techniques available. Those can include: a narrow work space in stream corridors and wetlands; shifting construction within the right of way (ROW) to avoid resources or directional drilling under the resource. Pipeline companies also develop contingency plans and storm water pollution prevention plans to further protect the resource when avoidance is not possible.

Comment 5: **The mitigation plan lacks sufficient detail to be considered complete. In addition to requiring mitigation for forested wetland conversion, mitigation should also be required for scrub-shrub wetland conversions. If In-Lieu-Fee is the mitigation option, appropriate mitigation should occur within the local HUC 12 watershed associated with the impact.**

Response 5: The application provided a commitment to purchase the appropriate In-Lieu Fee mitigation credits. This basic information was sufficient to consider the application administratively complete for processing. During the technical review, there may be some route changes or additional minimization or avoidance alterations to the application. Additional details will be necessary during the final technical review to ensure the mitigation will meet Ohio EPA rules for processing the application.

Comment 6: **The proposed pipeline route is located within 150 feet of Singer Bog, a Category 3 high quality water resource. The City is concerned about potential indirect impacts associated with storm water runoff and alteration of ground water flow.**

Response 6: As noted, the pipeline will not have any direct impacts to the wetland due to construction. Ohio EPA has met with the company to further discuss the need for a sound Storm Water Pollution Prevention Plan with appropriate Best Management Practices. Currently, the pipeline industry is not required to obtain a National Pollutant Discharge Elimination System (NPDES) permit for storm water construction activities due to a federal exemption. However, the companies are expected to abide by water quality standards

and employ appropriate storm water management practices. Ohio EPA will discuss concerns with the company to ensure ground water flow is not altered.

Comment 7: **Biological surveys conducted by NEXUS have been classified as confidential, but should be released for public review.**

Response 7: All documents submitted by NEXUS in conjunction with the 401 Water Quality Certification are public documents and available for review.

Comment 8: **The City is concerned about the quality and completeness of the Ohio Rapid Assessment Method (ORAM) data provided to Ohio EPA.**

Response 8: Ohio EPA does a combination of desktop and field verifications of ORAM scores. On-site field reviews are generally focused toward higher quality wetlands or ORAM scores near wetland category changes.

Comment 9: **Due to maintaining the pipeline route, there is concern that a two-year monitoring plan for invasive species is insufficient.**

Response 9: Ohio EPA considers the pipeline routes to be temporary impacts to the wetland resources. With a restoration process, two years should be sufficient to determine if the restoration is successful. Should excessive invasive species be identified in the pipeline corridor, Ohio EPA reserves the right to extend the restoration process beyond two years.

Comment 10: **There are concerns related to the U.S. Fish and Wildlife Service (USFWS) Biological Opinion related to the threatened and endangered bat species.**

Response 10: The protection of threatened and endangered species is a significant concern. However, authority for regulating these potential impacts lies with other agencies and not within the regulatory framework of Ohio EPA. It is recommended that you continue to pursue your concerns with USFWS and FERC.

Comment 11: **The reptile survey and monitoring protocols suggested by NEXUS do not meet the state requirements for Ohio.**

Response 11: Authority for regulating these potential impacts lies with other agencies and not within the regulatory framework of Ohio EPA. It is recommended that you continue to pursue your concerns with the Ohio Department of Natural Resources (ODNR) and FERC.

Comment 12: It has been noted by that the stream and wetland impacts in the final EIS do not match the 401 Certification application provided to Ohio EPA.

Response 12: Ohio EPA has seen similar discrepancies on other pipeline projects because of route changes or other actions taken by the applicant to minimize impacts to the water resources after submitting the original application. Ohio EPA will be working with the USACE in review of the EIS impacts to ensure consistency.

End of Response to Comments