



STATE OF TENNESSEE  
DEPARTMENT OF ENVIRONMENT AND CONSERVATION  
KNOXVILLE ENVIRONMENTAL FIELD OFFICE – MINING SECTION  
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## RESPONSE TO COMMENTS

February 10, 2022

Application for renewal of National Pollutant Discharge Elimination System (NPDES) permit

**BWI ETN LLC dba Blue Water Industries**  
**9509 Diggs Gap Road**  
**Heiskell, TN 37754**

**BWI Elizabethton Quarry**  
**210 Judge Ben Allen Road**  
**Elizabethton, TN 37642**  
**NPDES Permit TN0068977 (Renewal)**  
**Carter County**

This NPDES permit authorizes the discharge of treated mine wastewater and storm water from an existing 77.1 acre sandstone and limestone quarry and processing facility. The permittee submitted a complete application for renewal on October 1, 2021.

This NPDES permit authorizes discharges to Davis Branch in Carter County, Tennessee. Davis Branch is listed as having available parameters, except the following unavailable parameters: flow regime due to dam or impoundment, alterations in stream side or littoral vegetative cover due to municipal high-density area, and *E. coli* due to grazing in riparian or shoreline area.

Davis Branch is not identified or designated as an Exceptional Tennessee Water (ETW) or Outstanding National Resource Water (ORNW) according to the most recent list of “Known Exceptional Tennessee Waters and Outstanding National Resource Waters.” According to the information available to the Division, Davis Branch meets the specifications described at *Chapter 0400-40-03-.06(3)* for the classification of available parameters for the pollutants of concern at this facility (Total Suspended Solids (TSS) and pH). This permit renewal does not involve a new or increased discharge of pollutants. This permit does not authorize discharges that presently degrade Exceptional Tennessee Waters above a *de minimis* level or that presently degrade Outstanding National Resource Waters. This renewal does not authorize the discharge of *E. coli*, impoundment of streams, or the alteration of stream side vegetative cover. Accordingly, no further antidegradation review is required. The Division has made a final determination that the proposed activity will cause no measurable degradation of parameters that are available.

The Division issued a draft NPDES permit for the BWI Elizabethton Quarry on October 19, 2021, and issued a public notice document concerning the draft permit action on October 21, 2021. Public comments were received through November 22, 2021. A total of one public comment was received by the Division. All questions and comments received during the comment period concerning water quality discharges were considered by the Division in making a final permit decision.

**Comment:**

The previous two permits for this facility included a condition limiting pH fluctuating more than 1.0 units over a 24-hour period. This condition was removed in this draft permit. What is the basis for this condition removal? The small volumes of the Davis branch make the waterway susceptible to native pH changes from industrial water discharges. The maximum discharge rate in the permit application would be a good portion of the entire branch flow and pH changes from native conditions, even when in the 6.0 to 9.0 range, could be detrimental to biological conditions currently existing in the branch.

I would suggest the previous condition limiting pH fluctuations over 24 hours to remain in future permits along with appropriate monitoring to demonstrate compliance.

**Response:**

The referenced provision is an in-stream water quality standard which exists for multiple use classifications of the stream, including fish & aquatic life, recreation, and irrigation (see Rules 0400-40-03-.03(3)(b), 0400-40-03-.03(4)(b), and 0400-40-03-.03(5)(b)). The Division has determined that the previous location within the effluent limitations table caused this in-stream provision to be mistaken as an effluent limitation. In practice, the pH of effluent may fluctuate more than 1.0 standard units within 24 hours, provided that it does not result in a fluctuation of greater than 1.0 standard units within the receiving stream within 24 hours. The specific citation was removed in order to avoid confusion and to align mining related NPDES permits with all other NPDES permits across the state, as well as the region. The NPDES permit does still require all discharges to be protective of in-stream water quality standards (see Part A. 3.). As such, discharges from this facility cannot cause the receiving stream's pH to fluctuate more than 1 standard unit in 24 hours. In addition, Part II. C. 2. of the permit requires reporting within 24-hours if any discharge from this facility would cause a violation of in-stream water quality standards.

## **Decision**

The Division has reviewed the permit application for renewal, conducted the required antidegradation review, and considered all available stream assessments and data. Our review included in-stream background water quality monitoring, the most recent listing of 303(d) streams, Exceptional Tennessee Waters, and information concerning federal, and state listed threatened and endangered species.

The Division received public comments until November 22, 2021.

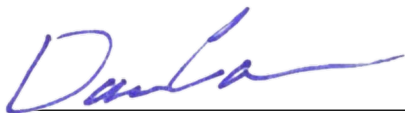
The Division has responded to oral and written comments received within the public comment period.

The public participation process included notifying all applicable state and federal agencies, including the US Fish & Wildlife Service (USFWS), US Environmental Protection Agency (EPA), Tennessee Wildlife Resources Agency (TWRA), TDEC Natural Heritage Program, and TDEC Division of Archaeology. The Division received one comment from the public and did not receive any comments from partner agencies.

Based on its review of all relevant data, the Division has determined that the NPDES permit complies with all applicable statutory and regulatory requirements, is protective of water quality, and can be issued.

This permit may be appealed to the Board of Water Quality, Oil and Gas pursuant to Tenn. Code Ann. § 69-3-105(i) and Tenn. Comp. R. & Regs. 0400-40-05-.12.

Sincerely,



**Daniel Lawrence**  
**Mining Section Manager**  
**Division of Water Resources**

February 10, 2022

**Date**