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Brad Hicks

Speakers Oppose Permit Renewal

All of the members of the public who spoke at Thursday's meeting concerning the proposed reissuing of a permit to US Nitrogen that would allow the company to discharge water into the Nolichucky River voiced opposition.

Thursday's public hearing in the gymnasium of West Greene High School was held to collect public comments on the Tennessee Department of Environment and Conservation's proposed reissuing of a National Pollutant Discharge Elimination System permit to US Nitrogen.

TDEC hosted the public hearing.

The NPDES permit was originally issued in 2014. The reissue, if granted, would be for five years. According to TDEC Division of Water Resources Manager Vojin Janjic, permits are issued based on five-year cycles. The permit issued in 2014 was issued in the middle of one of these cycles, leading to the permit being issued for a two-year period.

US Nitrogen, a subsidiary of Austin Powder Company, an Ohio-based commercial explosives manufacturer, will produce liquid ammonium nitrate at its Pottertown Road facility. This is a key material in the blasting agents manufactured by Austin Powder.

Last year, US Nitrogen completed the construction of two pipelines, owned by the Industrial Development Board of Greeneville and Greene County, to draw water from and discharge it back into the Nolichucky River. The company's plans call

for a 12-inch line to pipe an average of 1.5 million gallons of water each day from the river to a filtration facility also owned by the IDB.

The company is permitted to draw as much as 1.9 million gallons of water from the river per day.

An 8-inch line will pipe more than 500,000 gallons of water back to the river after it is used in a filtration process. The pipelines run approximately 12 miles along Fish Hatchery and McDonald roads between the river and the US Nitrogen plant in Midway.

Company officials previously stated that none of the water going back into the Nolichucky River will touch US Nitrogen's manufacturing process, even though the company is permitted to discharge water used in its cooling process back into the river. At a hearing two years ago, TDEC officials said US Nitrogen is permitted to discharge "de minimis" -- or minimal -- amounts of ammonia, nitrates and nitrites back into the river. Those chemical levels are less than 5 percent of what is allowed in the Nolichucky River, officials said two years ago.

Even though TDEC officials have stated the permit does not allow US Nitrogen to pollute the river, the plant's operations have left many concerned.

Around a dozen citizens from Greene County and surrounding areas spoke out against the permit being reissued during Thursday's meeting.

COMMENTS THURSDAY

William Isom opened the public comments portion of the meeting. He said the Tennessee Division of Water Resources has deemed the Nolichucky River an Exceptional Waterway. This designation is supposed to inhibit degradation, but Isom said the NPDES permit allows US Nitrogen to discharge ammonia in the river.

"This is one of our only clean rivers that we have left," he said. "A clean river should not be an exception. We should have lots of clean rivers, but this is one of the last ones that we have left. They're proposing to dump ammonia into an Exceptional Waterway, and I don't think that's acceptable."

Isom also said he doubted that the "bureaucratic process" of gathering input would result in a favorable outcome for those living along the river.

Several of those who signed up to speak yielded their time to Greene County resident and environmental activist Park Overall. She doesn't believe the Nolichucky contains enough water for plant operations.

"I am telling you we don't have the water to give them," she said.

Overall also said Gov. Bill Haslam has taken action that has weakened water quality laws in Tennessee.

"Your river is being played with by a governor playing God," she said in her comments. "No one can tell you there's enough water in that river. No one."

She further said regulators "sold out" members of the community and accused several agencies, including TDEC and the Environmental Protection Agency, of "collusion" to ensure that US Nitrogen could access the river.

"This plant is not even up and running, folks, and they want to extend this illegal permit for five years," Overall said. "There is no basis to extend a permit for five years on a plant that isn't even running. They don't even know the law."

Tracey Gilbert with the Cocke County-based organization Clean Water Expected in East Tennessee was the first speaker to call for an extension to the public comments period. She said this would provide more time to educate residents of Cocke and Jefferson counties and others living downstream of the plant about the permit request and the plans of the plant.

Gilbert added that members of CWEEET are opposed to US Nitrogen's use of the Nolichucky River, adding there are several reasons to distrust the company.

"First they say they're going to buy water and then they say, 'Nevermind, we're just going to take it for free,'" Gilbert said. "We think that's crazy."

This statement by Gilbert was in reference to US Nitrogen's original plans to purchase water from the Old Knoxville Highway Utility District. Those plans changed in late 2013, when company officials said they did not believe Old Knox could guarantee it could supply the water US Nitrogen would need each day.

She said five years is too long for the permit to be reissued.

"We have no idea what's going to happen," she said.

Fellow CWEET member Deborah Bahr joined Gilbert in calling for a 45-day extension to the comments period. She also called upon TDEC officials to "do your jobs."

"I do believe there is good science out there, but I don't think there's a political will to put it in action," Bahr said.

Scott Banbury with the Tennessee Chapter of the Sierra Club, said the organization is opposed to a five-year extension.

"We were promised in the last issuance of the permit that by this time we would have some results from sampling, testing, and what's going to come out of this pipe. We haven't seen that yet," Banbury said. "We don't have any evidence to determine that there's going to be no degradation to these waters."

Like several others, Washington County resident Stan Olmstead expressed concern over the impact US Nitrogen operations could have on the wildlife, particularly the endangered species, that call the Nolichucky River home. Along with that, he said he considers the potential pollution of the waterway a "civil rights issue."

Knoxville attorney Scott Hurley, who represents 45 families in Greene and Cocke counties who either have property along the river or adjoining the US Nitrogen pipeline, addressed TDEC officials.

"My clients don't believe that anything that is said here or done here tonight will make a difference in the fact that this permit is likely to be extended, renewed,

granted," he said. "They believe that the reports have been written, the studies have been done, and the verdict is in before this public hearing occurred."

But Hurley said US Nitrogen has no "track record" in operating its pipeline and taking water from the river, having done so for the first time recently. He asked that TDEC shorten the extension period from five years to six months.

"To US Nitrogen, I say you have a great responsibility," Hurley said. "You have many people in this room tonight who vehemently oppose what you are trying to do. And I will submit to you they oppose you tonight not so much because of what you have done, but because of the way you have done it."

The attorney also urged concerned residents to continue to voice their opposition. "I implore you, whether they give you 10 days or 15 days or 45 days, go home and write comments, load this record with your thoughts, your desires, your opinion so that this record will always indicate that you were here tonight to speak on behalf of this river."

PLANT PROGRESS

Prior to the start of the public comments portion of Thursday's meeting, US Nitrogen Plant Manager Andy Velo provided attendees with an overview of US Nitrogen, as well as an update on construction and production.

Velo said the majority of the plant, including all utility systems and the nitric acid and ammonium nitrate production plants, as well as storage and loading facilities, have all been commissioned. He said US Nitrogen is now in the process of commissioning and starting up its ammonia plants, adding that the plant sent its first shipment of ammonium nitrate to Austin Powder last week.

"Within a few weeks, we will be fully operational," he said.

US Nitrogen also issued a statement prior to the start of Thursday's meeting that stated, during the plant's phased start-up, US Nitrogen has withdrawn and discharged Nolichucky River water at various times during the last four months.

According to company officials, US Nitrogen provides routine reports to TDEC in compliance with water permit requirements.

The statement also said the plant is currently projected to come online for full production in mid-2016, but a spokesman wouldn't be more specific.

The period for TDEC to receive written comments was 10 days, but TDEC Manager Janjic said following Thursday's meeting that the department will consider extending that timeframe.

"As far as I'm concerned, that's a good idea," he said. "We can only gain from giving more time."

TDEC Regional Director for External Affairs Mark Braswell said it is difficult to determine when TDEC may make a decision regarding the permit reissue, as this will depend on staff workload and the processing of public comments. Janjic said the permit issued in 2014 will remain in effect until this decision is made.