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Home > Four Years After Application Submitted, DEQ Reviews EL Wastewater Plant's Permit

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## Four Years After Application Submitted, DEQ Reviews EL Wastewater Plant's Permit <sup>[1]</sup>

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**By:**

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Four years and four months after the City of East Lansing applied for a renewal of its long-expired wastewater treatment plant's permit to dump treated water into the Red Cedar River—which the plant currently does at the rate of 12 million gallons of water per day—the Michigan DEQ is finally getting around to reviewing the application and holding a brief public comment period. The DEQ, which has come under sharp fire for contributing to the Flint water crisis, appears to be finally reviewing the plant's application because of questions raised by a lawsuit against the City involving the plant, and because of ELi's subsequent reporting on the matter.

The permit at issue is the plant's National Pollutant Discharge Elimination System (NPDES) permit, which the EPA requires under the Clean Water Act if a facility is going to be dumping potentially dangerous material into public waters. Although the DEQ does not appear to have

asked the City to update its application, a lot has happened since East Lansing applied on time, in March 2012, for renewal of its major wastewater discharge permit:

- The plant has seen a significant mercury spill [2] that was covered up [3] and not reported, with the mercury spread around [4] the plant and possibly also the City [5].
- Violation notices and fines [6] have been levied by the DEQ and MIOSHA (the Michigan Occupational Safety and Health Administration).
- The EPA opened a criminal investigation following the mercury spill mishandling.
- The plant's superintendent has changed twice, and the City has a new Director of Public Works.
- A lawsuit by plant workers [7] is ongoing, alleging failure by City administrators to keep them safe from toxins.
- Another major spill [8] happened at the plant just last month, this time 600 gallons of ferric chloride.
- Millions of dollars in contracts have been awarded to upgrade the plant, with major changes underway.
- Even the plant's name [9] has been changed, from the Wastewater Treatment Plant to the Water Resource Recovery Facility.

None of this is mentioned in the DEQ's public notice [10] that it's planning to approve the plant's application from 2012. The public comment period was apparently opened on August 19, and will close on September 16?this Friday.

This permit renewal process has also gone unmentioned at East Lansing City Council meetings, even as City Council is being advised by attorneys on what to do about the lawsuit. I came to this story because I was alerted by Neal Wilensky, lawyer for the plant workers who are the plaintiffs in the suit against the City, that the plant's NPDES permit had expired in 2012.

I subsequently called the EPA to try to find out more, including how a major wastewater treatment plant is allowed to operate with a long-expired permit. The EPA referred me to Charles Bennett of the Michigan DEQ. That's because the EPA allows the Michigan DEQ to handle these permits.

After leaving multiple messages, I finally reached Bennett on August 11. I asked him why the plant was allowed to operate with a permit that had expired four years earlier, particularly when the EPA reporting site [11] shows the plant in either "in violation" or "in significant violation" for every single quarter of the last three years, sometimes because of problematic readings of things like fecal bacteria. Fecal (stool) bacteria is what shows up in "treated" water when human sewage is, in fact, inadequately treated. One reading showed the plant's fecal coliform level at 1954% of permissible levels. (This is water dumped into the Red Cedar River, not a source of our drinking water.)

Bennett told me "we are trying to wade through that and to figure it out." He told me the plant had "a pretty good compliance record," a claim not supported by the EPA reporting site, which obtains its information from Bennett's DEQ office. Bennett told me he thought violations might be related to "the wet weather we've been having," even after I explained there were three years of steady non-compliance reports. He ended the call by assuring me, "We'll figure it out."

Because I was having trouble getting a clear answer from the City about the permit's status, I had to work to find out whether the plant had ever applied for a new permit. Eventually I was told that yes, it had, back in April 2012. Bennett more recently explained to me that the plant's permit remained in effect, even though it had technically expired, because the plant had in fact applied for a renewal. I have tried to find out, without success, from the DEQ and EPA how long a permit is allowed to be extended in this fashion, with, according to Bennett, no paperwork on the extension even required.

Then on September 7<sup>th</sup> last week<sup>th</sup> asked by me whether <sup>th</sup>there's been any official action to renew the permit between 2012 and today,<sup>th</sup> Bennett responded, <sup>th</sup>The public notice documents, including the draft permit<sup>th</sup> will be available beginning August 17, 2016.<sup>th</sup>

It isn't clear why Bennett used the future tense to refer to a public notice that apparently predated his message by three weeks. What we do know is that the public comment period seems to have been opened several weeks ago and ends on September 16<sup>th</sup> this Friday. (View the notice and application here <sup>[12]</sup>. The public can also post comments <sup>[13]</sup> during this period.)

On September 7, the same date Bennett let me know the permit renewal is now open for public comment, I asked the EPA division that oversees the Michigan DEQ whether a gap of four years is common or acceptable to the EPA with a major wastewater treatment plant. The EPA Enforcement division referred me to the Public Relations division. They haven't yet answered those questions.

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- [2] <http://eastlansinginfo.org/content/mercurial-trail-part-1-spill-0>
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- [4] <http://www.eastlansinginfo.org/content/mercurial-trail-part-4-remains-day>
- [5] <http://www.eastlansinginfo.org/content/mercurial-trail-part-7-squelching-rumors>
- [6] <http://www.eastlansinginfo.org/content/mercurial-trail-part-5-violations>
- [7] <http://www.eastlansinginfo.org/content/lawsuit-proceeds-and-we-return-mercurial-trail>
- [8] <http://eastlansinginfo.org/content/new-600-gallon-spill-wastewater-plant>
- [9] <http://www.eastlansinginfo.org/content/council-capsule-october-6-2015>
- [10] [http://www.eastlansinginfo.org/sites/default/files/public\\_notice\\_document.pdf](http://www.eastlansinginfo.org/sites/default/files/public_notice_document.pdf)
- [11] <https://echo.epa.gov/detailed-facility-report?fid=110000733341#pane3110000733341>
- [12] <https://miwaters.deq.state.mi.us/miwaters/#/external/publicnotice/info/718964140663069744/details/-5156577069771808148>
- [13] <https://miwaters.deq.state.mi.us/miwaters/#/external/publicnotice/info/718964140663069744/comments/-5156577069771808148>
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- [15] <http://eastlansinginfo.org/content/testimony-shows-attention-safety-lacking-wastewater-plant>
- [16] [http://www.mlive.com/politics/index.ssf/2016/02/signs\\_of\\_trouble\\_at\\_mdeq\\_years.html](http://www.mlive.com/politics/index.ssf/2016/02/signs_of_trouble_at_mdeq_years.html)
- [17] [http://www.mlive.com/news/index.ssf/2016/05/departments\\_of\\_environmental\\_qu.html](http://www.mlive.com/news/index.ssf/2016/05/departments_of_environmental_qu.html)
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[23] <https://eastlansinginfo.org/redcedar>

[24] <https://eastlansinginfo.org/publicworks>

[25] <https://eastlansinginfo.org/safety>