

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary State of Ohio

Lead Agency Authorized to Act on Behalf of the Beneficiary Ohio Environmental Protection Agency
(Any authorized person with delegation of such authority to direct the Trustee delivered to the Trustee pursuant to a Delegation of Authority and Certificate of Incumbency)

Action Title:	Freight Switcher Locomotives
Beneficiary's Project ID:	Freight Switcher Locomotives 2023-2025
Funding Request No.	(sequential)8
Request Type: (select one or more)	☐ Reimbursement ☒ Advance ☐ Other (specify): _____
Payment to be made to: (select one or more)	☒ Beneficiary ☐ Other (specify): _____
Funding Request & Direction (Attachment A)	☒ Attached to this Certification ☐ To be Provided Separately

SUMMARY

Eligible Mitigation Action	☒ Appendix D-2 item (specify): <u>Freight Switcher Locomotives</u>
Action Type	☐ Item 10 - DERA Option (5.2.12) (specify and attach DERA Proposal): _____
Explanation of how funding request fits into Beneficiary's Mitigation Plan (5.2.1): See attached	
Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2): See attached	
Estimate of Anticipated NOx Reductions (5.2.3): See attached	
Identification of Governmental Entity Responsible for Reviewing and Auditing Expenditures of Eligible Mitigation Action Funds to Ensure Compliance with Applicable Law (5.2.7.1): See attached	
Describe how the Beneficiary will make documentation publicly available (5.2.7.2). See attached	
Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8). See attached	
Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9). See attached.	

If applicable, describe how the mitigation action will mitigate the impacts of NOx emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions (5.2.10). See attached.

ATTACHMENTS
(CHECK BOX IF ATTACHED)

- | | | |
|-------------------------------------|---------------------|---|
| ☒ | Attachment A | Funding Request and Direction. |
| ☒ | Attachment B | Eligible Mitigation Action Management Plan Including Detailed Budget and Implementation and Expenditures Timeline (5.2.4). |
| ☒ | Attachment C | Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.11). |
| ☒ | Attachment D | Detailed cost estimates from selected or potential vendors for each proposed expenditure exceeding \$25,000 (5.2.6). [Attach only if project involves vendor expenditures exceeding \$25,000.] |
| ☐ | Attachment E | DERA Option (5.2.12). [Attach only if using DERA option.] |
| ☐ | Attachment F | Attachment specifying amount of requested funding to be debited against each beneficiary's allocation (5.2.13). [Attach only if this is a joint application involving multiple beneficiaries.] |

CERTIFICATIONS

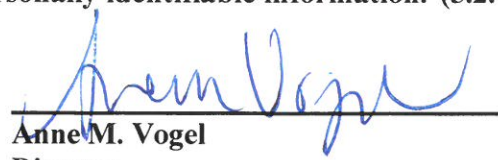
By submitting this application, the Lead Agency makes the following certifications:

1. This application is submitted on behalf of Beneficiary State of Ohio, and the person executing this certification has authority to make this certification on behalf of the Lead Agency and Beneficiary, pursuant to the Certification for Beneficiary Status filed with the Court.
2. Beneficiary requests and directs that the Trustee make the payments described in this application and Attachment A to this Form.
3. This application contains all information and certifications required by Paragraph 5.2 of the Trust Agreement, and the Trustee may rely on this application, Attachment A, and related certifications in making disbursements of trust funds for the aforementioned Project ID.
4. Any vendors were or will be selected in accordance with a jurisdiction's public contracting law as applicable. (5.2.5)
5. Beneficiary will maintain and make publicly available all documentation submitted in

support of this funding request and all records supporting all expenditures of eligible mitigation action funds subject to applicable laws governing the publication of confidential business information and personally identifiable information. (5.2.7.2)

DATED:

3-7-25



Anne M. Vogel
Director

Ohio Environmental Protection Agency
[LEAD AGENCY]

for

State of Ohio
[BENEFICIARY]

Beneficiary Eligible Mitigation Action Certification
Supplemental Information (Attachments A, B, C, and D)
Beneficiary: State of Ohio
Lead Agency: Ohio Environmental Protection Agency
In support of Funding Request No. 8

ATTACHMENT A
Funding Request and Direction

Eligible Mitigation Action Type **Appendix D-2 item (specify): 5 Freight Switcher Locomotives**

Explanation of how funding request fits into Beneficiary's Mitigation Plan (5.2.1):

Ohio's BMP filed May 31, 2018, allocates \$5 million to the replacement or repower of switcher locomotives. This request will support 5 projects to replace or repower diesel switcher locomotives with all-electric equipment. These projects are being carried out in Cuyahoga and Lucas Counties, both designated as first priority for funding in Ohio's BMP because of population density, historical levels of diesel emissions and nonattainment of national ozone standards under the Clean Air Act. This request is for \$5,350,000 in Trust funds: \$5,000,000 to support five repower or replacement projects, and \$350,000 (7%) for Ohio EPA's administrative costs to oversee these projects. Ohio's Beneficiary Mitigation Plan estimates Ohio EPA's total administrative costs at \$5.05 million, or 7% of the state's total allocation.

Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2):

Five freight switcher locomotives will be replaced or repowered with all-electric equipment in Cuyahoga and Lucas Counties. Ohio EPA used US EPA's Diesel Emission Quantifier (DEQ) tool to estimate annual emission reduction benefits to be achieved by the five projects to be: 24.305 tons of NO_x, 0.517 tons of fine particulates (PM_{2.5}), 1.411 tons of hydrocarbons (HC), and 2.555 tons of carbon monoxide (CO). The list of projects follows, and a table with emission reduction estimates for each project is included in the next section on page 3.

To date, a total of \$8,522,048.00 has been awarded through the Diesel Mitigation Trust Fund, for the following Switch Locomotives projects:

Cleveland Port Railway, LLC, Cuyahoga County, \$2,700,000 for 75% of the cost to repower one model year 1955 diesel-powered freight switcher locomotive to all-electric battery operation, #221215-000011, #V23F-002. Contact: Scott Remington, sremington@omnitrax.com or 404.989.8234.

Midwest Terminals of Toledo, Inc., Lucas County, \$1,142,048 for 75% of the cost to repower one model year 1956 diesel-powered freight switcher locomotive to all-electric battery operation, #V20F-041. Contact: Todd Audet, todd.audet@mwtti.com or 567.402.4975.

Midwest Terminals of Toledo, Inc., Lucas County, \$1,346,250 for 75% of the cost to repower one model year 1970 diesel-powered freight switcher locomotive to all-electric battery operation, #231205-000010, #V24F-008. Contact: Todd Audet, todd.audet@mwtti.com or 567.402.4975.

Newburgh & South Shore Railroad, Cuyahoga County, \$1,890,000 for 75% of the cost to replace one model year 1971 diesel-powered freight switcher locomotive to all-electric battery operation, #210803-000027, #V22F-006. Contact: Scott Remington, sremington@omnitrax.com or 404.989.8234.

Newburgh and South Shore Railroad, Cuyahoga County, \$1,443,750 for 75% of the cost to replace one model year 1971 diesel-powered freight switcher locomotive with a new all-electric battery switcher locomotive, #231213-000008, #V24F-009. Contact: Scott Remington, sremington@omnitrax.com or 404.989.8234.

This request includes **\$350,000 (7% of \$5,000,000) for administrative costs**. Ohio EPA's administrative costs related to this type of project began with outreach and review of grant applications submitted in August 2019, 2021, 2022 and 2023. Administrative responsibilities will continue with active oversight of the five projects through November 2025, when the last is scheduled for completion.

Estimate of Anticipated NOx Reductions (5.2.3)

Ohio EPA used US EPA's [Diesel Emission Quantifier](#) (DEQ) tool to estimate the anticipated reductions of NOx and three other air pollutants to be achieved annually by these five projects, broken out as follows:

Ohio Switcher Locomotive projects	Nox (tons)	PM2.5 (tons)	HC (tons)	CO (tons)
Cleveland Port Railway, LLC (OmniTRAX Inc.) #V23F-002	2.388	0.051	0.139	0.251
Midwest Terminals of Toledo, Inc. #V20F-041	6.941	0.148	0.403	0.730
Midwest Terminals of Toledo, Inc. #V24F-008	6.600	0.140	0.383	0.694
Newburgh & South Shore Railroad (OmniTRAX Inc.) #V22F-006	4.188	0.089	0.243	0.440
Newburgh & South Shore Railroad (OmniTRAX Inc.) #V24F-009	4.188	0.089	0.243	0.440
TOTALS	24.305	0.517	1.411	2.555

Identification of Governmental Entity Responsible for Reviewing and Auditing Expenditure of Eligible Mitigation Action Funds to Ensure Compliance with Applicable Law (5.2.7.1)

The Ohio Environmental Protection Agency.

Describe how the Beneficiary will make documentation publicly available (5.2.7.2)

The Ohio Environmental Protection Agency, as the lead agency for the State of Ohio implementing the Beneficiary Mitigation Plan, is committed to maintaining and making publicly available all documentation submitted in support of the funding requests and all records supporting all expenditures of Eligible Mitigation Action funds, subject to applicable laws governing the publication of confidential business information and personally identifiable information. Ohio EPA is subject to Ohio public records requirements in [chapter 149 of the Ohio Revised Code](#), and also to requirements in [Ohio Revised Code Section 125.112](#) that state agencies post all grant awards above \$25,000 on a public-facing website.

Ohio EPA has established a webpage on the VW Settlement and mitigation actions, [VW Mitigation Grants | Ohio Environmental Protection Agency](#). This site includes Ohio's Beneficiary Mitigation Plan; public comments received during Plan development and Ohio EPA's response; [short descriptions of all projects selected for funding](#) to date; and a [chart](#) of Ohio planned allocations by sector and amounts awarded. For each annual grant application cycle offered by Ohio EPA, the VW program webpage also includes the Request for Proposals, grant application guidelines; slides and recordings from webinars for prospective grant applicants; posted questions and answers compiled from email and telephone inquiries received by Ohio EPA during the grant application cycle. For each grant cycle, the VW program webpage includes a rank ordering of all applications received by cost effectiveness of the projected emission reductions.

During development of Ohio's draft Beneficiary Mitigation Plan in 2016, Ohio EPA issued news releases and sent an initial email announcement inviting comments to 20,355 addresses from all the Agency's mailing lists. From that effort, Ohio EPA developed and currently maintains an electronic listserv, open to the public, to communicate news, events, and information specifically about Mitigation Trust Fund and other diesel emission reduction grant application opportunities and awarded projects. The listserv currently includes contact information for more than 4,300 individuals. When each annual grant cycle opens, Ohio EPA issues a news release and emails the interested parties to announce the funding opportunity. Another release and emailing are issued to announce the projects awarded grants from Ohio's Mitigation Trust Fund. This information is also shared through partner organizations such as the Ohio School Boards Association, Ohio Public Transit Association, regional planning agencies, Clean Fuels Ohio (Ohio's US DOE Clean Cities affiliate), the Midwest Clean Diesel Initiative coordinated by US EPA Region 5 in Chicago, and the national [VW Settlement Clearinghouse](#) and [VW Settlement state and local programs website](#) maintained by NASEO and NACAA.

Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8)

Ohio will use Mitigation Trust Funds to provide up to 75% of the cost to replace or repower five switcher locomotives with new zero-emission, all-electric equipment. The recipients are required to

provide at least 25% of the replacement or repower costs. Actual percentages for each project are included in the Project Budget table on page 7 within Attachment B below.

Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9):

On February 23, 2018, Ohio EPA provided notice, via letter and email, of availability of Mitigation Action Funds to all the parties named in 4.2.8, as well as the Wright-Patterson Air Force Base (WPAFB) Civil Engineer Group, the WPAFB Environmental Branch, both in Dayton, and the U.S. Army Corps of Engineers Great Lakes and Ohio River Division in Cincinnati. The notification to the U.S. Fish and Wildlife Service was copied to the Ottawa National Wildlife Refuge in Oak Harbor, Ohio. Notification to the U.S. Forest Service was copied to the Wayne National Forest headquarters in Nelsonville, Ohio. Notification to the National Park Service was copied to the Cuyahoga Valley National Park office in Brecksville, Ohio. The notice included a summary description of the Volkswagen Settlement including links to Appendix D-2 and Ohio's at-that-time Draft Beneficiary Mitigation Plan with a listing of Eligible Mitigation Actions, an explanation of how Ohio EPA would evaluate grant applications, and instructions to sign up for notification about implementation of Ohio's BMP, funding opportunities and application guidelines for the program in Ohio.

If applicable, describe how the mitigation action will mitigate the impacts of NOx emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions (5.2.10).

This program will reduce emission exposures of children and adults living and working in and around ports and eligible intermodal distribution centers in Cuyahoga and Lucas Counties. Both of these counties have been designated as first priority for receiving Environmental Mitigation Funds, based on the following considerations:

- air quality (Ohio counties of concern due to nonattainment of national air quality standards for ozone and PM_{2.5});
- historical levels of diesel emissions;
- the location of concentrated sources of air pollution such as distribution centers, multimodal centers, ports, rail and bus terminals and airports;
- the counties where the most VW vehicles equipped with defeat devices were registered in Ohio; and
- county overlays using U.S. EPA's [*EJScreen: Environmental Justice Screening and Mapping Tool*](#).

ATTACHMENT B
Eligible Mitigation Action Management Plan, Including Detailed Budget and
Implementation and Expenditures Timeline (5.2.4)

Project Management Plan
Project Schedule and Milestones

Milestone	Date
\$5 million allocated to switcher locomotives included in Ohio Beneficiary Mitigation Plan filed with VW Trustee 5/31/2018	CY 2018 Q2
Ohio EPA offers 2019 grant application open cycle, 6/3/19 – 8/2/19	CY 2019 Q2-3
2019 grant awards for one switcher locomotive project announced in December 2019	CY 2019 Q4
Ohio EPA executes contract and issues authorization to proceed Midwest Terminals of Toledo, Inc. #V20F-041 (6/2/20)	CY 2020 Q2
Ohio EPA offers 2021 grant application cycle for non-road projects including switcher locomotives, 6/7/21 – 8/13/21	CY 2021 Q2-3
2021 grant awards for one switcher locomotive project announced in October 2021	CY 2021 Q4
Ohio EPA executes contract and issues authorization to proceed Newburgh & South Shore Railroad (OmniTRAX Inc.) #V22F-006 (1/14/22)	CY 2022 Q1
Ohio EPA offers 2022 grant application cycle for non-road projects including switcher locomotives, 6/6/22 – 8/12/22	CY 2022 Q2-3
2022 grant awards for one switcher locomotive project announced in December 2022	CY 2022 Q4
Ohio EPA executes contracts and issues authorization to proceed to Cleveland Port Railway, LLC (OmniTRAX Inc.) #V23F-002 (3/24/23)	CY 2023 Q1
Ohio EPA offers 2023 grant application cycle for non-road projects including switcher locomotives, 6/5/23 – 8/12/23	CY 2023 Q2-3
2023 grant awards for two switcher locomotive projects announced in September 2023	CY 2023 Q3
Ohio EPA executes contracts and issue authorization to proceed to Midwest Terminals of Toledo, Inc. #V24F-008 (2/23/24) and Newburgh & South Shore Railroad (OmniTRAX Inc.) #V24F-009 (3/7/24)	CY 2024 Q1
Ohio EPA submits eighth D-4 request to VW Trustee for Switcher Locomotive projects	CY 2025 Q1
Anticipate completion and reimbursement of all switcher locomotive project awards	CY 2025 Q4
Ohio EPA reports to Trustee on status of and expenditures with Mitigation Actions completed and underway.	1/30 and 7/30 annually

PROJECT BUDGET

	Period of Performance for these five grant recipients: November 2019 – November 2025		
Budget Category	Total Approved Budget	Share of Total Budget to be Funded by the Trust (75%)	Cost Share, Paid by Switcher Locomotive Owners (25%)
<i>Equipment Expenditure (TOTALS)</i>	\$ 11,362,731	\$ 8,522,048	\$ 2,840,683
Cleveland Port Railway, LLC (OmniTRAX Inc.) #V23F-002	\$ 3,600,000	\$ 2,700,000	\$ 900,000
Midwest Terminals of Toledo, Inc. #V20F-041	\$ 1,522,731	\$ 1,142,048	\$ 380,683
Midwest Terminals of Toledo, Inc. #V24F-008	\$ 1,795,000	\$ 1,346,250	\$ 448,750
Newburgh & South Shore Railroad (OmniTRAX Inc.) #V22F-006	\$ 2,520,000	\$ 1,890,000	\$ 630,000
Newburgh & South Shore Railroad (OmniTRAX Inc.) #V24F-009	\$ 1,925,000	\$ 1,443,750	\$ 481,250
Contractor Support	\$ -	\$ -	\$ -
Subrecipient Support	\$ -	\$ -	\$ -
Administrative ¹	\$ 350,000	\$ 350,000	\$ -
Project Totals	\$ 11,712,731	\$ 8,872,048	\$ 2,840,683
Percentage	100%	76%	24%

¹Subject to Appendix D-2 15% administrative cap. Ohio BMP caps administrative at 7%.

PROJECTED TRUST ALLOCATIONS

	2024	2025	2026
1. Anticipated Annual Project Funding Request to be paid through the Trust	\$7,820,825.81 for PCH	\$5,000,000 for Switchers, \$5,000,000 for School and Transit Buses plus 7% admin = \$10,700,000	\$584,676.06 after BMP amendment to allocate remaining funds and reallocate the funds according to actuals.
2. Anticipated Annual Cost Share	\$3,926,021	\$2,500,000	\$146,169,015
3. Anticipated Total Project Funding by Year (line 1 plus line 2)	\$11,746,846.81	\$13,200,000	\$730,845,075
4. Cumulative Trustee Payments Made to Date Against Cumulative Approved Beneficiary Allocation	\$48,376,194.99	\$56,197,020.80	\$66,897,020.80
5. Current Beneficiary Project Funding to be paid through the Trust (line 1)	\$7,820,825.81	\$10,700,000	\$584,676.06
6. Total Funding Allocated to Beneficiary, including of Current Action by Year (line 4 plus line 5)	\$56,197,020.80	\$66,897,020.80	\$67,481,696.86
7. Beneficiary Share of Estimated Funds Remaining in Trust	\$19,105,501.87	\$11,284,676.06 plus accumulated interest	\$584,676.06
8. Net Beneficiary Funds Remaining in Trust, net of cumulative Beneficiary Actions (line 7 minus line 5)	\$11,284,676.06	\$584,676.06 plus accumulated interest.	0

ATTACHMENT C
Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.11)

The Ohio Environmental Protection Agency will provide detailed reporting on this Category 3 Freight Switcher Locomotive replacement and repower projects in two ways:

- (1) Timely updates to Ohio EPA's Volkswagen Mitigation Grant webpage, <https://epa.ohio.gov/oeo/#131365122-vw-mitigation-grants>; and
- (2) Ohio's semiannual reporting obligation to Wilmington Trust (the "Trustee").

Ohio EPA maintains a VW Environmental Mitigation Trust specific webpage that has been designed to support public access and limit burden for the public. The Agency is committed to maintaining and making publicly available all documentation submitted in support of the funding requests and all records supporting all expenditures of Eligible Mitigation Action funds, subject to applicable laws governing the publication of confidential business information and personally identifiable information. Ohio EPA is subject to Ohio public records requirements in [chapter 149 of the Ohio Revised Code](#), and also to requirements in [Ohio Revised Code Section 125.112](#) that state agencies post all grant awards above \$25,000 on a public-facing website. These laws outline best practices for public access to records, and exemptions in the case of confidential business information and personally identifiable information meeting exemption criteria under the Ohio Public Records Law.

None of the information requested or received by Ohio EPA in the Diesel Mitigation Trust Fund grant program meets the criteria under Ohio law for a trade secret exemption. To the limited extent information is submitted to Ohio EPA that meets exemption criteria under Ohio public records law, Ohio EPA will maintain that information as confidential.

Records will be retained until the termination date of the Environmental Mitigation Fund or by retention schedules determined by the State Records Program under [Ohio Revised Code section 149.333](#), whichever is longer.

Subparagraph 5.3 of the Environmental Mitigation Trust Agreement for State Beneficiaries details Ohio's reporting obligations. Ohio EPA shall, in the next semiannual report following the Trustee's approval of this request, describe the progress implementing this Eligible Mitigation Action that will include a summary of all costs expended on the Eligible Mitigation Action through the reporting date. The report will also include a complete description of the status, development, implementation (including project schedule and milestone updates), and any modification to this Eligible Mitigation Action.

ATTACHMENT D

Detailed cost estimates from selected or potential vendors for each proposed expenditure exceeding \$25,000 (5.2.6)

Switcher Locomotive Replacement Projects

Grant Applicant	New Locomotive Fuel Type	Number of Locomotive pieces	Quoted New Switcher Locomotive Cost	Awarded New Switcher Locomotive Cost and %
Cleveland Port Railway, LLC (OmniTRAX Inc.) #V23F-002	electric	1 repowered engine	\$ 3,600,000	\$ 2,700,000 (75%)
Midwest Terminals of Toledo, Inc. #V20F-041	electric	1 repowered engine	\$ 1,557,587	\$ 1,142,048 (73%)
Midwest Terminals of Toledo, Inc. #V24F-008	electric	1 repowered engine	\$ 1,795,000	\$ 1,346,250 (75%)
Newburgh & South Shore Railroad (OmniTRAX Inc.) #V22F-006	electric	1 replaced switcher locomotive	\$ 2,520,000	\$ 1,890,000 (75%)
Newburgh & South Shore Railroad (OmniTRAX Inc.) #V24F-009	electric	1 replaced switcher locomotive	\$ 1,925,000	\$ 1,443,750 (75%)

Grant applicants provided quotes from potential vendors of the various switcher locomotives. All grant application materials are public records, and these price quotes may be requested from Ohio EPA.