



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

FILED

SEP 13 2024

INDIANA STATE
ETHICS COMMISSION

IC 4-2-6-11
Post-employment waiver

As the Appointing Authority of the Indiana Department of Environmental Management, I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Nicole Gardner in her prospective post-employment with Environmental Consulting and Technology (ECT), Inc.

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of *(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):*

- IC 4-2-6-11(b)(1): 365 day required "cooling off" period before serving as a lobbyist.
- IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.
- IC 4-2-6-11(b)(3): 365 day required "cooling off" period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.
- IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. *(Please provide a brief description of the specific particular matter(s) to which this waiver applies below):*

The particular matters being waived are two permits Ms. Gardner drafted while at IDEM. These are permits for which Environmental Consulting and Technology, the firm to which Ms. Gardner has applied, has previously helped businesses apply. The numbers for these permits are IN0004685 and IN0002887.



Visit on .IN.gov/survey or scan the QR code to provide feedback.

We appreciate your input!



B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

Mrs. Gardner is a technical environmental specialist within the Office of Water Quality (OWQ) at IDEM. Her duties include monitoring compliance activities related to agreed orders and consent decrees issued to industrial facilities, drafting NPDES permits as needed, and acting as liaison between the Compliance & Enforcement Branch and the Permits Branch. As a NPDES permit writer, she reviews permit applications for completeness, then drafts permits using information provided in the applications as well as technical information developed by others within the office (water quality models, cooling water intake structure technology determinations, etc.) In her roles at IDEM, Mrs. Gardner participated in discussions and advise others about various NPDES permits and related requirements, however, she did not have the final decision making authority over those matters. She does not have substantial decision-making authority over policies, licenses, permits, or contracts.

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

Mrs. Gardner applied for a Senior Scientist/Engineer position with ECT. This position would require Mrs. Gardner to conduct reviews of regulatory requirements related to NPDES permitting and water quality standards, prepare and submit industrial NPDES permit applications in accordance with regulatory guidelines, develop and implement water quality monitoring programs, evaluate environmental data and prepare technical reports, provide technical support and guidance on water quality management practices and regulatory compliance, collaborate to develop solutions for environmental challenges.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

The prospective position would require periodic contact with IDEM. NPDES permit applications are due every five (5) years. NPDES applications may be due more frequently if permit modifications are required. In her potential role with ECT., Mrs. Gardner could be completing and submitting NPDES applications for permittees in Indiana, using approved state forms. Outreach would largely pertain to future permit applications for renewals, not current permit materials on which Ms. Gardner worked at IDEM.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

The prospective employment would be beneficial to the State and public. During her years at IDEM, Mrs. Gardner has acquired substantial knowledge of IDEM's industrial NPDES permits, federal and state regulations, and how they support protection of human health and the environment. Her knowledge of NPDES permitting, as well as federal and state regulations, would help ensure complete and timely applications are received by IDEM from ECT clients in Indiana, which would in turn, ensure more timely permit renewals for those permittees.

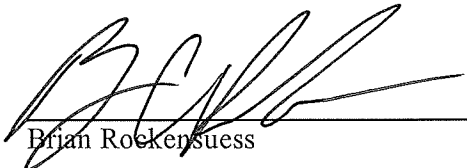
- 5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

If the waiver is not granted, Mrs. Gardner would not be able to accept the position. An offer of employment is dependent upon the NPDES permits she is allowed to work on if she leaves state employment. If the waiver is not granted, Mrs. Gardner would not be able to work on a substantial number of NPDES permit applications, resulting in no longer being considered for the position. This would represent both a lost opportunity for an increase in salary, increased schedule flexibility, and a step in her professional development leading.

C. Signatures

- 1. Appointing authority/state officer of agency

By signing below, I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation.




Brian Rockensuess

9/12/24

DATE

- 2. Ethics Officer of agency

By signing below, I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).

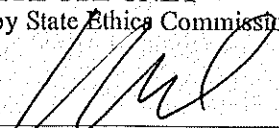


James M French

9/12/24

DATE

D. Approval by State Ethics Commission

| | |
|---|---------|
| FOR OFFICE USE ONLY | |
| Approved by State Ethics Commission | |
|  | 9-13-24 |
| Katherine Noel, Chair, State Ethics Commission | Date |

Mail to:
Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202
OR
Email scanned copy to:
info@ig.in.gov

*Upon receipt you will be contacted
with details regarding the*



ETHICS DISCLOSURE STATEMENT
CONFLICTS OF INTEREST – DECISIONS AND VOTING
 State Form 55860 (R / 10-15)
 OFFICE OF THE INSPECTOR GENERAL
 IC 4-2-6-9

In accordance with IC 4-2-6-9, you must file your disclosure with the State Ethics Commission no later than seven (7) days after the conduct that gives rise to the conflict. You must also include a copy of the notification provided to your agency appointing authority and ethics officer when filing this disclosure. This disclosure will be posted on the Inspector General's website.

| | | |
|--|---|---|
| Name (<i>last</i>) Gardner | Name (<i>first</i>) Nicole | Name (<i>middle</i>) Andrea |
| Name of office or agency Indiana Department of Environmental Management | | Job title Technical Environmental Specialist |
| Address of office (<i>number and street</i>) 100 N. Senate Ave. | | City Indianapolis |
| | | ZIP code 46204 |
| Office telephone number (317) 232-8707 | Office e-mail address (<i>required</i>) ngardner@idem.in.gov | |

Describe the conflict of interest:
 I am a Technical Environmental Specialist in the Office of Water Quality (OWQ) Compliance and Enforcement Branch at the Indiana Department of Environmental Management (IDEM). I assist with Compliance and Enforcement issues with large industrial facilities, draft industrial National Pollutant Discharge Elimination System (NPDES) permits as needed for the OWQ Permits Branch, and act as liaison between the two branches. I have applied for a Senior Scientist /Engineer position with Environmental Consulting & Technology Inc. (ECT), a consulting firm that does business with entities over which IDEM has permitting authority.

Describe the screen established by your ethics officer: (Attach additional pages as needed.)
See attached screening protocol

[Dotted lines for text entry]

AFFIRMATION

Your signature below affirms that your disclosures on this form are true, complete, and correct to the best of your knowledge and belief. In addition to this form, you have attached a copy of your written disclosure to your agency appointing authority and ethics officer.

Signature of state officer, employee or special state appointee

Nicole Gardner

Date signed (month, day, year)

8-29-24

Printed full name of state officer, employee or special state appointee

Nicole Gardner

FOR ETHICS OFFICER USE ONLY

Your signature below affirms that you have reviewed this disclosure form and that it is true, complete, and correct to the best of your knowledge and belief. You also attest that your agency has implemented the screen described above.

Signature of ethics officer

James M French

Date signed (month, day, year)

8-29-24

Printed full name of ethics officer

James M French

Protocol to Screen
Indiana Department of Environmental Management's
Office of Water Quality's Nicole Gardner
from Any Matters Regarding Environmental Consulting and Technology, Inc.

Ms. Nicole Gardner is a Technical Environmental Specialist within the Office of Water Quality's (OWQ) Compliance and Enforcement Branch at the Indiana Department of Environmental Management (IDEM). Ms. Gardner's duties include assisting with compliance and enforcement issues with large industrial facilities, drafting industrial National Pollutant Discharge Elimination System (NPDES) permits as needed for the OWQ Permits Branch, and acting as a liaison between the two branches.

On July 19, 2024, Ms. Gardner applied for a Senior Scientist/Engineer position at Environmental Consulting and Technology, Inc (ECT). ECT is a consulting firm that provides consultation to IDEM-regulated entities, with whom Ms. Gardner has interacted in her capacity as a Technical Environmental Specialist at IDEM. Per IC 4-2-6-9, IDEM is instituting the following to ensure Ms. Gardner is screened from any potential conflict of interest with ECT.

1. OWQ Compliance Branch Chief Jason House (BC House) is Ms. Gardner's direct supervisor. BC House will not assign any current or future matter that may arise involving ECT, or any of its clients, to Ms. Gardner.
2. Ms. Gardner shall recuse herself from the portion of any meeting at IDEM in which discussions specific to ECT, or in which any of its clients or interests are discussed or are expected to be discussed.
3. Ms. Gardner shall not discuss any matter involving ECT, or any of its clients, with any other IDEM employee.
4. BC House will notify in writing all employees in his supervisory chain that they are not to discuss any matters involving ECT, or any of its clients, with Ms. Gardner, nor send her any emails concerning ECT.
5. Ms. Gardner shall not participate in decisions regarding or relating to ECT, or any of its clients.
6. Ms. Gardner shall not access any correspondence or files relating to or involving ECT, or any of its clients, either during her hours of work at IDEM or by utilizing State equipment. Such documents, if not a matter of public record in IDEM's Virtual File Cabinet, shall be housed with the employee assigned to the matter or kept where Ms. Gardner does not have access to alter the documents.
7. Ms. Gardner shall immediately inform BC House and IDEM Ethics Officer James French if any provision of this screening protocol is violated.
8. Ms. Gardner shall follow IC 4-2-6-9(b) and file a written disclosure statement with the State Ethics Commission.
9. All signatories to this screening protocol shall review it within thirty (30) days from the date of

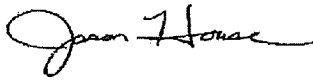
the last signature to assure it has been followed and determine if the circumstances have changed to make the protocol no longer necessary.



Nicole Gardner
Technical Environmental Specialist
Office of Water Quality

8-29-24

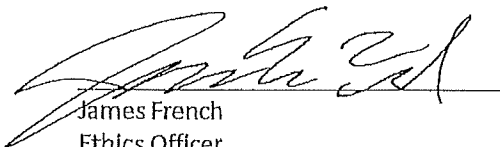
Date



Jason House
Branch Chief
Office of Water Quality

8-29-24

Date



James French
Ethics Officer
Office of Legal Counsel

8-29-24

Date


Ethics Screen for Nicole Gardner

French, James M <JFrench@idem.IN.gov>

Thu 8/29/2024 1:33 PM

To:Rockensuess, Brian <BRockens@idem.IN.gov>

Cc:Gardner, Nicole <ngardner@idem.IN.gov>

 1 attachments (155 KB)

Gardner Screen and Disclosure -ECT.pdf;

Commissioner Rockensuess,

This email serves as notification to the appointing authority per IC 4-2-6-9(b)(2)(D) that OWQ's Nicole Gardner has a potential conflict of interest. Ms. Gardner has applied to work for a consulting firm, Environmental Consulting and Technology, that does business with IDEM regulated entities. Per IC 4-2-6-9, IDEM is instituting the following to ensure Ms. Gardner is screened from any potential conflict of interest with ECT. Ms. Gardner and I have discussed IC 4-2-6-9, and I instructed her to file a written disclosure to the Office of the Inspector General and to implement a screening protocol here at IDEM, see attached. Ms. Gardner's supervisor, Jason House, has been notified of the screening protocol. Please reach out if you have any questions, thanks.

Best,
Michael

James Michael French

Attorney | IDEM

Tel: (317) 234-2170

Email: jfrench@idem.in.gov

*****PRIVILEGED AND CONFIDENTIAL*****

The information contained in this email and any attachment(s) is confidential information protected by legal privileges, including but not limited to the attorney-client, work product and/or deliberative process privileges. The information is exempt from disclosure pursuant to IC 5-14-3-4(b)(2) and (6) and other applicable laws. It is only for the use of the named, intended recipient(s), and the privileges are not waived by virtue of this having been sent by e-mail or mistakenly sent to any unintended recipient(s). If the person(s) actually receiving this email or any other reader of the email is not the named, intended recipient(s) or the employee(s) or agent(s) responsible to deliver it to the named, intended recipient(s), any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify the sender by e-mail or by phone at (317) 234-2170 and permanently delete all copies of this e-mail.

