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RYAN FLYNN
Cabinet Secretary


BUTCH TONGATE
Deputy Secretary

MEMORANDUM

DATE: September 8, 2015

TO: Holland Shepherd, Program Manager, Mining Act Reclamation Program

FROM: Larry Shore and John Hall, Ground Water Quality Bureau
Neil Schaeffer and Sarah Holcomb, Surface Water Quality Bureau
Neal Butt and Elizabeth Kuehn, Air Quality Bureau

THROUGH: John Hall, NMED Mining Act Team Leader 

RE: NMED Comments, Horizon Ag-Products, Cuba Humate Processing Facility, New Minimal Impact Mining Permit, MMD Permit SA012MN

The New Mexico Environment Department (NMED) received correspondence from the Mining and Minerals Division (MMD) on August 19, 2015 requesting NMED review and comment on the above referenced MMD permitting action. MMD requested comments within 20 days of receipt in accordance with Section 19.10.3 of the New Mexico Mining Act. Horizon Ag-Products (Horizon)'s humate processing facility (site) is located approximately 1 mile southeast of Cuba, NM in Sandoval County. NMED performed a site inspection on August 21, 2014. NMED has reviewed the permit application addendum and has the following comments:

Background

An ephemeral drainage named Rito Leche crosses the property on the east side before joining Nacimiento Creek which flows into the Rio Puerco approximately 1 mile southeast of the Horizon site. The entire mill site has a uniform grade which is elevated approximately 12" to 18" above the surrounding land on all sides of the site.

During operations inside the mill, some waste humate is generated as equipment is cleaned out. It is removed from the mill by wheelbarrow and placed on waste piles along the property

boundary on the south side of the mill. The waste piles and stockpiled ore generate windblown humate dust. During the August 21, 2014 site inspection, it was observed that there are no apparent designed storm water control structures on the Horizon site to prevent storm water runoff onto surrounding property.

Air Quality Bureau

The AQB has no additional comments (attached under separate letterhead) based on the application addendum, and does not modify the content of its August 29, 2014 comments (attached under separate letterhead) including the following:

The Air Quality Bureau regulates fugitive dust, or particulate matter, from stationary sources, as defined in 20.2.72 NMAC. Based on the proposed operation, this facility contains equipment and emissions regulated pursuant to the preconstruction permit regulation. The emissions from equipment and activities such as crushers, screens, conveyors, baghouses, material drop and transfer points, haul roads, and storage piles must all be considered in determining applicability under 20.2.72 NMAC.

Depending on the potential emission rate from this facility, the permittee may be required to obtain an air quality permit prior to construction and operation of the source.

Surface Water Quality Bureau

Horizon submitted their Notice of Intent for a Multi-Sector General Permit (MSGP) for industrial facilities. They certified (under penalty of law) that they had a Stormwater Pollution Prevention Plan (SWPPP) and the SWPPP details how they will be in compliance with the permit. Even though NMED documented issues with housekeeping, etc. during the August 21, 2014 site inspection, the Surface Water Quality Bureau expects that Horizon will come into compliance under the new MSGP.

Ground Water Quality Bureau

The depth to ground water was not provided in the permit application. However, the depth to water beneath the site is estimated to be between 50' and 100' below the existing ground surface. Given the limited size of the facility and type of materials stored outside, The Ground Water Quality Bureau does not expect that ground water quality standards would be exceeded.

NMED Summary Comment

The activities described in the application and addendum should have no adverse impacts to ground water or surface water (provided the MSGP is complied with). However, further information is required by the AQB to determine if air quality permitting is required. Horizon must contact the AQB to determine what steps must be taken prior to NMED making a final decision on the environmental determination.

Holland Shepherd
September 8, 2015
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Determination

NMED is not providing an environmental determination at this time pending a response from Horizon Ag-Products addressing the Air Quality Bureau's concerns regarding the determination of applicability under 20.2.72 NMAC.

If you have any questions, please contact John Hall at (505) 827-1049.

cc: Michelle Hunter, Bureau Chief, GWQB
James Hogan, Bureau Chief, SWQB
Richard Goodyear, Bureau Chief, AQB
Fernando Martinez, Division Director, EMNRD-MMD
David J. Ennis, Lead Staff, EMNRD-MMD
Kurt Vollbrecht, Program Manager, MECS
Larry Shore, Lead Staff, MECS
Sarah Holcomb, Point Source Manager, SWQB
Elizabeth Kuehn, Environmental Specialist, AQB



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Ryan Flynn
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MEMORANDUM

DATE: August 24, 2015

TO: John Hall, Mining Act Team Leader
Mining Environmental Compliance Section, Ground Water Quality Bureau

FROM: Neal Butt, Environmental Scientist & Specialist
Air Quality Bureau

RE: Request for Comments on Minimal Impact New Mining Operation Application
Addendum, Cuba Humate Processing Facility, Horizon-Ag Products
Sandoval County, New Mexico,
Permit Tracking No. SA012MN

The New Mexico Air Quality Bureau (AQB) has completed its review of the following: 8/14/15 letter from Horizon requesting re-assessment of "No Determination" permitting decision made by NMED regarding the necessity of an appropriate Multi-Sector General Permit (MSGP); 8/17/15 Detailed Facility Report printout from Enforcement and Compliance History Online (ECHO); MSGP application submitted to EPA; and 3/13/15 NMED site inspection report.

Pursuant to the New Mexico Mining Act Rules, the AQB has the following comments: The AQB has no additional comments, and does not modify the content of its 8/29/14 comments.

If you have any questions, please contact me at (505) 476-4317.



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MEMORANDUM

DATE: August 29, 2014

TO: Keith Ehlert,
Acting Mining Act Team Leader
Ground Water Quality Bureau

FROM: Neal Butt
Environmental Scientist / Specialist, Air Quality Bureau

RE: Request for Comments on Minimal Impact New Mining Operation Application,
Cuba Humate Processing Facility, Horizon-Ag Products, Sandoval County, New Mexico,
Permit Tracking No. SA012MN

The New Mexico Air Quality Bureau (AQB) has completed its review of the above mentioned mining project. Pursuant to the New Mexico Mining Act Rules, the AQB has the following comments:

Air Quality Permitting History

The AQB has not issued any air quality permits for this operation. However, if the current permitting action involves new construction, or the modification or reconstruction of an existing source, then a permit may be required. The history of the current facility is as follows:

- Startup (10/27/05)
- Came to the attention of NMED AQB (5/6/09)
- Inspection and Partial Compliance Evaluation (PCE) (5/6/09)
- Horizon Ag submitted a No Permit Required (NPR) determination to the NMED AQB (7/13/09)
- Inspection and PCE (9/14/09)
- Notice of Violation (NOV) issued (10/8/09)
- NPR denied (12/22/09)

- NMED AQB request for interpretation by EPA of applicability of 40 CFR 60.670, Subpart OOO, *Standards of Performance for Nonmetallic Mineral Processing Plants* (2/19/10)
- Horizon-Ag request for interpretation by EPA of applicability of 40 CFR 60.670, Subpart OOO, *Standards of Performance for Nonmetallic Mineral Processing Plants* (4/16/10)
- Meeting between EPA, NMED AQB, and Horizon-Ag (5/12/10)
- Horizon-Ag submitted proposed sampling and analysis plan to EPA (6/11/10)
- EPA's response to NMED AQB in favor of OOO applicability (9/8/11)
- EPA's response to Horizon-Ag in favor of OOO applicability (9/8/11)
- Horizon-Ag request to EPA for reconsideration (9/26/11)
- EPA declines request for further reconsideration (10/13/11)
- Horizon-Ag request to EPA for reconsideration (12/2/11)
- EPA withdrawal of 9/8/11 interpretation letter (10/17/12)
- NMED AQB withdrawal of NOV (3/6/13 & 4/4/13)

Air Quality Requirements

The New Mexico Mining Act of 1993 states that "Nothing in the New Mexico Mining Act shall supersede current or future requirements and standards of any other applicable federal or state law." Thus, the applicant is expected to comply with all requirements of federal and state laws pertaining to air quality. Current requirements which may be applicable in this mining project include, but are not limited to the following:

Subsection A of 20.2.72.200 NMAC, *Application For Construction, Modification, NSPS, And NESHAP - Permits And Revisions*, states that: "Permits must be obtained from the Department by:

(1) "any person constructing a stationary source which has a potential emission rate greater than 10 pounds per hour or 25 tons per year of any regulated air contaminant for which there is a National or New Mexico Ambient Air Quality Standard. If the specified threshold in this subsection is exceeded for any one regulated air contaminant, all regulated air contaminants with National or New Mexico Ambient Air Quality Standards emitted are subject to permit review. . ."; and

(3) "Any person constructing or modifying any source or installing any equipment which is subject to 20.2.77 NMAC, *New Source Performance Standards* {e.g. *Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants*}, 20.2.78 NMAC, *Emission Standards for Hazardous Air Pollutants*, or any other New Mexico Air Quality Control Regulation which contains emission limitations for any regulated air contaminant;"

Also, Paragraph (1) of Subsection A of 20.2.73.200 NMAC, *Notice Of Intent* states that:

"Any owner or operator intending to construct a new stationary source which has a potential emission rate greater than 10 tons per year of any regulated air contaminant or 1 ton per year of lead shall file a Notice of Intent with the department."

In addition, pursuant to Subsection A of 19.10.3.304.A NMAC, *Minimal Impact New Mining Operations*:

“A minimal impact *new* mining operation will not exceed 10 acres of disturbed land, except that a new mining operation extracting humate may exceed 10 acres but not 20 acres if its approved closeout plan or reclamation plan provides for concurrent reclamation of mined-out areas. Pre-existing roads and reclaimed acres within the permit area will not be counted as part of the acreage limitation for a minimal impact new mining operation.”

Humate is prone to become suspended in the air; therefore, the AQB recommends implementation of a strategy to reduce fugitive humate from the mining operation.

The above is not intended to be an exhaustive list of all requirements that could apply. The applicant should be aware that this determination does not supersede the requirements of any current federal or state air quality requirement.

Details

The applicant has submitted a permit application for a new minimal impact mining operation for the Cuba Humate Processing Facility, operated by Horizon-Ag Products in Sandoval County, New Mexico, Permit Tracking No. SA012MN. Mined humate is transported to the facility where it is unloaded and then processed using crushing, screening and drying. Potential emissions may be generated during unloading and as material is processed through hopper(s), silo(s), crusher(s), Crumblier(s), hammermill(s), screen(s), dryer(s), and baghouse(s). The permit area in the current permit application includes undeveloped land south of the current facility (bounded by Miera Rd.). Permit application does not indicate whether the facility is planning to expand into this area. A site visit was conducted on August 21, 2014.

Permitting Requirements for Regulated Equipment and Sources of Fugitive Dust

The Air Quality Bureau regulates fugitive dust, or particulate matter, from stationary sources, as defined in 20.2.72 NMAC. Based on the proposed operation, this facility contains equipment and emissions regulated pursuant to the preconstruction permit regulation. The emissions from equipment and activities such as crushers, screens, conveyors, baghouses, material drop and transfer points, haul roads, and storage piles must all be considered in determining applicability under 20.2.72 NMAC.

Depending on the potential emission rate from this facility, the permittee may be required to obtain an air quality permit prior to construction and operation of the source. Please contact the Permit Section for additional guidance. A memo from the Minor Source Section outlining the permitting history at this site is included in this Memorandum.

If you have any questions, please contact me at (505) 476-4317.

Enclosure