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BUTCH TONGATE
Cabinet Secretary - Designate

J.C. BORREGO
Deputy Secretary

MEMORANDUM

DATE: February 10, 2017

TO: Holland Shepherd, Program Manager, New Mexico Energy, Minerals and Natural Resources Department, Mining and Minerals Division, Mining Act Reclamation Program

FROM: Kurt Vollbrecht, Program Manager, New Mexico Environment Department, Mining Environmental Compliance Section

RE: **NMED Environmental Determination, Horizon Ag-Products, Cuba Humate Processing Facility, Sandoval County, New Mexico MMD Permit No. SA012MN**

The Mining and Minerals Division (MMD) received a permit application for a minimal impact, new mine from Horizon Ag-Products on July 22, 2014. In accordance with Section 19.10.3.304.H NMAC, the New Mexico Environment Department (NMED) received a request to review and provide comments from MMD related to the permit application on July 29, 2014. NMED provided comments on the above referenced facility on August 29, 2014 and again on September 8, 2015. The Cuba Humate Processing Facility is approximately five acres in size and receives mined humate where it is processed for commercial sale.

Pursuant to 19.10.3.304.J(6) NMAC of the New Mexico Mining Act, Director approval of an application to incorporate a closeout plan requires a written determination from the Secretary of the Environment Department stating that the application has demonstrated that the activities to be permitted or authorized will be expected to achieve compliance with all applicable air, water quality, and other environmental standards if carried out as described in the closeout plan. NMED has reviewed the materials submitted to MMD as part of the application process and issues the attached determination.

Surface Water Quality Bureau

Horizon Ag-Products is addressing a past U.S. Environmental Protection Agency (USEPA) issued Administrative Order for violations of the Clean Water Act (33 U.S.C. § 1251 et seq.) that included a failure to obtain coverage under the USEPA Multi-Sector General Permit (MSGP) for stormwater discharges associated with industrial activities and the failure to develop and implement a Stormwater Pollution Prevention Plan (SWPPP)^{1,2}. On December 1, 2016,

representatives from the Surface Water Quality Bureau, Mining Environmental Compliance Section, Mining and Minerals Division, and Horizon Ag-Products visited the Cuba Facility to inspect the site and discuss requirements relevant to an NMED environmental determination.

In an effort to meet the requirements of the Administrative Order, Horizon Ag-Products presented NMED representatives with a Stormwater Pollution Prevention Plan for the Cuba Facility which contained up-to-date Discharge Monitoring Reports which will be submitted by Horizon Ag-Products to the USEPA in 2017. NMED representatives also observed newly constructed stormwater improvements – two stormwater retention basins designed for the 100-year storm event as well as various drainage improvements which appear to be functioning properly and collecting stormwater runoff from the facility. Industrial stormwater discharges that comply with general permits are not likely to cause significant degradation of water quality.

¹ <https://www.epa.gov/nm/compliance-assurance-and-enforcement-documents-new-mexico>

² <https://www.env.nm.gov/swqb/NPDES/Inspections/>

Ground Water Quality Bureau

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, ground water quality standards in Section 20.6.2.3103 A. NMAC will not likely be exceeded.

Air Quality Bureau

The Air Quality Bureau is currently evaluating a request from Horizon Ag for a no permit required determination. Currently Horizon Ag is not in violation of applicable air quality permitting requirements or air quality standards. The proposed activities described under the closeout plan provided for Mining Act Permit No. SA012MN should achieve compliance with applicable air quality standards.

If you have any questions, please contact Kurt Vollbrecht at (505) 827-0195.

cc: Bruce Yurdin, Division Director, NMED-WPD
Shelly Lemon, Acting Bureau Chief, SWQB
Richard Goodyear, Bureau Chief, AQB
Fernando Martinez, Division Director, EMNRD-MMD
DJ Ennis, Lead Staff, EMNRD-MMD
Jeffrey Lewellin, Mining Act Team Leader

Attachment: NMED Environmental Determination, Horizon Ag-Products, Cuba Humate Processing Facility

KV/jcl



State of New Mexico
ENVIRONMENT DEPARTMENT



Office of the Secretary

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Secretary of the Environment Department Determination Pursuant to the New Mexico Mining Act (NMMA), NMSA 1978, § 69-36-7(P)(2), and New Mexico Mining Act Rule 19.10.3.304.J(6) NMAC, Permit No. SA012MN

Horizon Ag-Products has submitted an application for a minimal impact new mine to the Mining and Minerals Division of the New Mexico Energy, Minerals and Natural Resources Department pursuant to the NMMA that includes an updated closure/closeout plan.

A determination is hereby provided to Horizon Ag-Products by the Secretary of the Environment Department that the applicant has demonstrated that the activities to be permitted or authorized will be expected to achieve compliance with all applicable air, water quality, and other environmental standards if carried out as described in the NMMA permit and associated state and federal environmental permits.

Applicant: Horizon Ag-Products
Operation: Cuba Humate Processing Facility
Permit: SA012MN

Determination by: _____

Butch Tongate

Butch Tongate, Secretary
New Mexico Environment Department