



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

OFFICE OF THE
SECRETARY

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Secretary's Order No. : 2011-CZ-0001

RE: Application of Oceanport, LLC, for a Coastal Zone Act Permit to Offload and Store Potash (Muriate of Potash) at their existing facility located at 6200 Philadelphia Pike, Claymont, Delaware

Date of Issuance: **January 5, 2011**

Effective Date: **January 5, 2011**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control under 29 Del. C. §§8001 et seq., the following findings and conclusions are entered as an Order of the Secretary:

The Applicant, Oceanport, LLC, seeks a Coastal Zone Act Permit to offload and store potash (Muriate of Potash) at their existing facility located at 6200 Philadelphia Pike, Claymont, Delaware. Under the Coastal Zone Act, the Oceanport facility is considered to be a "nonconforming use", meaning a use, whether of land or of a structure, which does not comply with the applicable use provisions of this chapter, where such use was lawfully in existence and in active use prior to June 28, 1971 (7 Del.C., Chapter 70, Coastal Zone Act, §7002[b]).

The proposed project would bring in potash from vessels by clam bucket, which would then be discharged into the pier hopper. The product is in dry, small pellet form.

The product would either be stored in an existing storage tank modified to safely hold the product, or some other storage vessel yet to be determined. No dust is expected to be present in the off-loading and transport to the storage vessel. Initial delivery of the product is anticipated at approximately 7,000 tons. The product is utilized as a fertilizer.

The Department requires a CZA Applicant to set forth in its application the proposed project's possible environmental impacts, including, but not limited to, any increased air emissions of pollutants, water quality/water quantity/water use, and the disposal of solid and hazardous wastes. Furthermore, any application for a CZA permit for an activity or facility that will result in any negative environmental impact shall contain an offset proposal, which will more than offset the proposed negative impacts of any proposed project. In the present matter, Oceanport's proposed project will produce no new air emissions, nor no new wastewater or storm water discharges. No water will be needed, thus, water supply is not an issue. No solid or hazardous waste will be generated. There will be no impacts to habitat, and no other adverse environmental impacts are anticipated. Thus, with regard to this project, no environmental offset would be required, as again, no negative environmental impacts are anticipated from this project.

The Department provided public notices of this CZA Application's submission and the determination of an administratively complete application following the Secretary's Assessment, which was signed on October 26, 2010. CZA Regulation 8.3.6 requires that the Secretary shall, within ninety (90) days of receipt of an administratively complete application, reply to the request for a CZA permit by "...either granting the permit, denying the permit, or granting the permit, but with special conditions. The

Secretary shall state the reasons for his decision.” In the present instance, the ninety (90) day deadline is January 26, 2010.

A duly noticed public hearing was held on November 22, 2010, at the DNREC offices located at 391 Lukens Drive, New Castle, Delaware. No members of the public attended the public hearing, and no comments were received from the public by the Department during any phase of this public hearing process. Subsequent to the public hearing of November 22, 2010, the Department’s presiding hearing officer, Lisa A. Vest, prepared a Hearing Officer’s Report dated December 15, 2010 (Report).

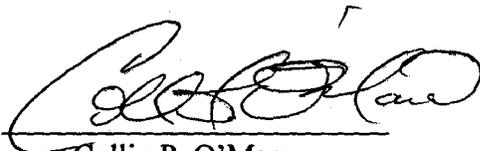
I find and conclude that the record developed in this matter supports approval of issuing the Applicant a CZA permit, as recommended in the aforementioned Report. Based on the record, and the technical expertise of the Department’s personnel who assisted in this application, the record supports approval of Oceanport’s application for the permit, as consistent with the CZA and its regulations. I further find that Oceanport’s permit application is consistent with the CZA, which is to balance the economic and environmental interests of the State of Delaware. The issuance of the aforementioned permit will allow Oceanport to offload and store potash (Muriate of Potash) at their existing facility located at 6200 Philadelphia Pike, Claymont, Delaware.

Accordingly, I direct that a Coastal Zone permit be issued to the Applicant, and enter the following findings and conclusions:

1. The Department has jurisdiction under its statutory authority to issue a CZA Permit to the Applicant, subject to reasonable permit conditions deemed appropriate and consistent with the CZA’s purposes;

2. The Department provided adequate and lawful public notice of the Coastal Zone Act Application of Oceanport, LLC, and of the public hearing held on November 22, 2010, and held said hearing to consider public comment on the application, in a manner required by the law and regulations;
3. The permit approved by this Order is for production/manufacturing activities which will take place within the defined Coastal Zone of Delaware, and is for the expansion of existing manufacturing uses of Oceanport, LLC, which requires a CZA permit for the same, to wit: to allow Oceanport to offload and store potash (Muriate of Potash) at their existing facility located at 6200 Philadelphia Pike, Claymont, Delaware;
4. The Department has considered the factors required to be weighed in issuing a CZA permit, and finds that the proposed use is appropriate for the Coastal Zone at the proposed location, and that it should be permitted as set forth in Oceanport's application;
5. The Department shall issue a permit to the Applicant, Oceanport, LLC, and said permit shall include all conditions consistent with the final Order and any other reasonable conditions that the Department includes in a CZA permit, to ensure that Delaware's environment will be protected from harm, consistent with the CZA and its regulations;
6. The Department has carefully considered all the statutory factors to be considered in making a decision on a CZA permit and those required to be considered under the CZA regulations;

7. The Department finds that the proposed use is appropriate for the Coastal Zone at the proposed location, and that it should be permitted as set forth in detail in the application;
8. The Department has an adequate record for its decision, and no further public hearing is appropriate or necessary;
9. The Department shall serve and publish its Order on all affected persons in a manner consistent with the service and publication of Secretary's Orders; and
10. This proposed project will allow the Applicant to continue to expand its manufacturing business, while reducing the overall environmental impacts to the Coastal Zone area, in furtherance of the purposes of 7 Del. C., Ch. 70.



Collin P. O'Mara
Secretary

**DELAWARE
COASTAL ZONE ACT
PERMIT**

NUMBER: 388

ISSUED TO: Oceanport, LLC

TO PERMIT: The offloading and storage of potash (Muriate of Potash)

SITE LOCATION: 6200 Philadelphia Pike, Claymont, Delaware

Conditions Incorporated and Made Part of this Permit:

1. This permit is conditional upon the Permittee's compliance with all other applicable permit requirements, regulations and laws of the State of Delaware.
2. Issuance of this permit does not relieve the Permittee of the legal obligation of complying with all building permits, subdivision and other applicable code requirements of the county or municipality wherein the permitted project is located.
3. If there are significant deviations from the plan and operations approved by the Secretary, the Permittee shall notify the Secretary as soon as possible. This permit may be revoked and a new permit application required if the Secretary deems the deviation to substantially change the nature or scale of the project and to be of actually or probably harm to the purposes of the Coastal Zone Act.

Signature: _____



Collin P. O'Mara, Secretary

Department of Natural Resources & Environmental Control

Date: _____

4 July 2011