



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
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Office of the
Secretary

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Secretary's Order No. : 2010-CZ-0037

RE: Application of Mountaire Farms of Delaware, Inc., for a Coastal Zone Act Permit to construct and operate a Resource Recovery Facility within the existing Mountaire complex, located on the south side of State Route 24 at 29005 John J. Williams Highway, Millsboro, Delaware

Date of Issuance: **November 3, 2010**

Effective Date: **November 3, 2010**

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, Mountaire Farms of Delaware, Inc., seeks a Coastal Zone Act Permit to construct and operate a resource recovery facility within the existing Mountaire complex, located on the south side of State Route 24 at 29005 John J. Williams Highway in Millsboro, Delaware. The proposed operation consists of recovering unused protein (i.e., blood, feathers, and offal) from the Mountaire Millsboro and Selbyville poultry processing plants, farms, and hatcheries, and transporting those raw materials to the resource recovery facility by tractor-trailer. Once at the resource recovery facility, those raw materials would be offloaded into receiving bins located within that facility, at which time said materials would be sized, conditioned, and hydrolyzed.

Delaware's Good Nature depends on you!

The final products (i.e., hydrolyzed feather and poultry meal and feed grade fat) would then be loaded onto trucks for shipping to a variety of points of use.

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, Mountaire's project will produce approximately 355 pounds per day of Total Nitrogen, a substance regulated by DNREC Permit #LTS 5011-87-04. There will also be an increase in air emissions. There will be no discharges of stormwater to surface waters. Water (used for boiler steam, cooling tower makeup, scrubber makeup, and cleanup, averaging approximately 489,400 gallons per day) will be supplied through groundwater from the Columbia aquifer. There will be one dumpster load of solid waste per week consisting of aprons, shackles, knives, etc., which will be transported to the Delaware Solid Waste Authority landfill in Sussex County, Delaware, outside of the Coastal Zone. There will be no hazardous waste. Due to the fact that this proposed operation will be taking place within the existing Mountaire facility footprint, there will be no impacts to wildlife habitat. Odors will be abated through thermal oxidation.

As noted above, the Applicant has the burden to propose an environmental offset which shall more than offset the negative environmental impacts of any proposed project. With regard to the anticipated air emissions stemming from this project, Mountaire is voluntarily replacing two of the three complex boilers at the Millsboro site, and will fire the new boilers on natural gas

rather than No. 6 fuel oil. This replacement will reduce complex air emissions by approximately 71 tons per year.

In addition to the offset proposal for the aforementioned air emissions attributable to this resource recovery project, Mountaire will also upgrade and expand the existing wastewater treatment facility (“WWTF”) to decrease the Total Nitrogen being applied to crop land below current levels. The proposed upgrades to the WWTF would include abandoning the existing oxidation ditch and replacing it with a state-of-the-art Biological Nutrient Removal (BNR) system, which would be able to significantly reduce the total nitrogen concentration in the wastewater by increasing the de-nitrification capabilities of the WWTF. It is anticipated that, after the upgrade and the construction of the resource recovery facility, the annual nitrogen load from the WWTF would be 105,000 pounds annually. In contrast, the nitrogen load from 2009 was 292,000 pounds. That reduction of 187,000 pounds will provide a significant offset to the projected annual nitrogen load of 100,000 pounds from the resource recovery facility. The BNR upgrade will provide a 64% reduction in the nitrogen load.

Delaware’s CZA Regulations (9.1.6) require that, in the instance where an offset project itself requires one or more additional permits from program(s) within DNREC, the Secretary shall “...issue the Coastal Zone Permit only after all applicable permit applications for offsetting projects have been received and deemed administratively complete by DNREC.”

The Department’s Ground Water Discharges Section has met and communicated with both the Applicant and its consultant, CABE Associates, Inc., that Mountaire must submit to the Department the following documents prior to proceeding with its proposed offset project: (1) a revised Design Development Report (“DDR”); (2) technical plans and specifications for the treatment plant upgrade; and (3) a construction permit application. Due to the fact that the DDR

and plans and specifications provide extensive details and calculations about the project, the submittal of this information along with the permit application would satisfy DNREC.

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 September 27, 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 December 27, 2010. The Applicant's consultant, CABA Associates, Inc., has indicated to the Department that the aforementioned requisite submissions can be made to DNREC's Ground Water Discharges Section on or before December 27, 2010.

A duly noticed public hearing was held on October 20, 2010, at the Millsboro Civic Center, Millsboro, Delaware. Members of the public attended the public hearing, but no comments were received from the public by the Department at that time. Representatives from the Department and the Applicant were in attendance at this hearing, and made presentations to develop the record, including, but not limited to, six (6) letters of support for this project from various State Legislators and State Agencies. Hearing Officer Lisa A. Vest, in a report dated November 1, 2010 ("Report"), and appended hereto and incorporated herein, recommended approval of this Coastal Zone permit, subject to the standard and reasonable conditions in a CZA permit that are included to protect Delaware's precious environment.

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 Mountaire's application for the permit, as consistent with the CZA and its regulations.

I find that Mountaire'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, along with the Applicant's subsequent procurement of the requisite additional permits in order to proceed with construction and operation of the upgraded WWTF facility, will allow Mountaire to construct and operate a resource recovery facility within its existing complex, as proposed in its application. Additionally, this project will economically benefit the State of Delaware by (1) solidifying the jobs of over 3,500 employees at Mountaire's existing Delaware plants; (2) creating in excess of thirty (30) additional manufacturing jobs once the new facility is completed; (3) creating an estimated 308 construction jobs during the construction phase of this project; and (4) infusing approximately \$5,600,000 into Delaware's economy with the purchase of the necessary construction supplies and services here in Delaware.

Accordingly, I direct that a conditional 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 Mountaire Farms of Delaware, Inc., and of the public hearing held on

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 Mountaire Farms of Delaware, Inc., which requires a CZA permit for the same, to wit: to construct and operate a resource recovery facility within the existing Mountaire Farms of Delaware, Inc. complex, located on the south side of State Route 24, east of Millsboro, as described in Mountaire's application;
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, with conditions, as set forth in Mountaire's application;
5. The Department shall issue a permit to the Applicant, Mountaire Farms of Delaware, Inc., 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, to wit: the Applicant shall submit to DNREC's Ground Water Discharges Section a revised DDR, technical plans and specifications for the WWTF upgrade, and a construction permit application, on or before December 27, 2010. Furthermore, pursuant to CZA Regulation 9.3.2, any and all permits required to undertake an offset project must be obtained by Mountaire within 180 days of issuance of said CZA permit;

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