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DEPARTMENT OF NATURAL RESOURCES  
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Secretary

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**Secretary's Order No.: 2019-A-0028**

**RE:** Applications of Mountaire Farms of Delaware, Inc., to amend its existing Reg. No. 1102 Natural Minor Permit to allow for the following: (1) replacement of an existing hammermill baghouse with an AirLanco baghouse; and (2) replacement of an existing pellet cooler with an electric Hayes & Stolz pellet cooler at its Millsboro facility, located at 29106 John J. Williams Highway, Millsboro, in Sussex County, Delaware.

**Date of Issuance: June 25, 2019**

**Effective Date: June 25, 2019**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 7 *Del.C.* §§6003, 6004(b), 6006(4), and all other relevant statutory authority, the Department issues this Order, approving construction permits to allow Mountaire Farms of Delaware, Inc. ("Mountaire," "Applicant") to amend its current 7 DE Admin. Code 1102 Natural Minor Permit to allow for the following: (1) replacement of an existing hammermill baghouse with an AirLanco baghouse; and (2) replacement of an existing pellet cooler with an electric Hayes & Stolz pellet cooler at its facility located at 29106 John J. Williams Highway, Millsboro, Delaware ("Applications"). The Applicant's proposed projects are subject to various state and federal regulatory requirements, including, but not limited to, Delaware's air quality regulations, as set forth in 7 DE Admin. Code 1100, *Air Quality Management Section*.

## **BACKGROUND AND FINDINGS OF FACT**

The Applicant's proposed permit modifications will enable Mountaire to be proactive with regard to necessary maintenance of its existing equipment. The replacement baghouse filters are 99.99% efficient, the same efficiency as the existing units. The replacement pellet cooler, manufactured by Hayes & Stolz as noted above, has a particulate removal efficiency of 95%. The existing Koger-Air Model 2H54 high-efficiency cyclones (which are part of the pellet cooler mechanisms) were installed in 2010, and will continue to be utilized at this time.

The Application for the replacement of the existing hammermill baghouse was received by the Department on June 21, 2018, and the Application for the replacement of the existing pellet cooler was received by the Department on July 30, 2018. Thereafter, the Applications were placed on public notice on July 8, 2018 to open the fifteen day public comment period. During the public notice period, the Department's Division of Air Quality ("DAQ") received a request for a public hearing regarding this matter. The Department held its public hearing concerning this matter on November 26, 2018, which was attended not only by Department staff and representatives of the Applicant, but also by several members of the public, who offered comment at the time of the hearing for inclusion into the formal hearing record. Proper notice of the hearing was provided as required by law.

The hearing record generated in this matter indicates that several members of the public offered comments regarding Mountaire's pending Applications at the time of the November 26, 2018 public hearing. These comments were made by citizens who are concerned about the air quality in Sussex County, specifically, the potential impact upon that air quality resulting from the Applicant's operations at its Millsboro complex. Concerns were also voiced regarding the strong odors emitting from the Mountaire complex (and the manner in which the Department has been responsive to such complaints).

Following the public hearing of November 26, 2018, the technical experts in the Department's DAQ prepared a Technical Response Memorandum ("TRM") to (1) specifically address the concerns associated with these pending Applications, as set forth in the public comment received by the Department in this matter; (2) provide a formal regulatory review of the Applicant's proposed projects; and (3) offer DAQ's conclusions and recommendations with regard to these pending Applications for the benefit of the hearing record generated in this matter. This TRM was subsequently received from DAQ for inclusion into the hearing record by Hearing Officer Lisa A. Vest.

The TRM provides the DAQ's formal responses to the public comment received by the Department regarding matters specifically associated with the Applications currently pending before the Secretary at this time. This TRM does not, however, address comments that pertain to matters outside the permitting authority of the DAQ, nor is it responsive to any comments that are not specifically related to these pending Applications, which was the subject matter of the public hearing held by the Department on November 26, 2018.

Hearing Officer Vest prepared her Hearing Officer's Report ("Report"), which attached DAQ's TRM referenced above, and expressly incorporated the same therein. Ms. Vest's Report set forth the procedural history, summarized and established the record of information ("Record") relied on in the Report, and provided findings of fact, reasons, and conclusions that recommend that the Department approve these Applications, subject to the conditions set forth in the following draft Permits: (1) APC-2014/0093 – Construction (Amendment 4): Hammermills – EU53; and (2) APC-2014/0090 – Construction (Amendment 2): Pellet Cooler 1 – EU54. The Report also addressed the public comments received in this matter, and concluded that the same did not warrant the Department's denying these Applications, or delaying these permit decisions to receive additional information.

## REASONS AND CONCLUSIONS

The pending Applications submitted to the Department by the Applicant in this matter are for DAQ construction permits to replace an existing hammermill baghouse and an existing pellet cooler at Mountaire's facility located at 29106 John J. Williams Highway, Millsboro, Delaware. I find that the proposed projects require the Applicant to obtain DAQ construction permits for the aforementioned projects to be performed at the location noted above. I further find that the Applicant's proposed projects are subject to various state and federal regulatory requirements, including, but not limited to, Delaware's air quality regulations as set forth in 7 DE Admin. Code 1100, *Air Quality Management Section*.

In reviewing the applicable statutes and regulations, as well as weighing public benefits of this project against potential detriments, the Department's experts in the Division of Air Quality have concluded that the aforementioned replacement of both the existing hammermill baghouse and the existing pellet cooler complies with all federal and state air pollution control laws and regulations. The aforementioned construction permits, once issued by the Department's DAQ, will be reflective of the Applications submitted, and will contain requirements that include, but are not limited to, a Construction-to-Operation inspection at start-up, natural minor inspections (at least) every five years, partial compliance inspections every two to three years, and additional inspections as potential issues may arise.

Among the public comments received by the Department in this matter were those that questioned how air emissions will be monitored, specifically, whether the Department considered emissions from nearby plants in its air quality evaluations of a proposed source at Mountaire, or if only Mountaire's sources were taken into consideration during such evaluation. Additional questions concerned whether the Department had equipment to measure air quality in nearby residential areas, whether there are ambient air monitors nearby, how the efficiency of the new equipment will be maintained by the Applicant, and what will happen to the Applicant should such equipment is found to not be functioning properly. Still other concerns voiced by members of the public at the hearing pertained to the odor complaints which residents have long attributed to the Applicant's operations at its Millsboro facility.

In response to those concerns, DAQ's TRM verifies that the Department evaluates emissions from the proposed source only. Dispersion modeling is conducted for every source that has an air permit. That modeling is very conservative, and incorporates "worst case" parameters. The Department does have the ability to measure air quality in nearby residential areas, and does so with the use of its mobile monitoring platform (which has been utilized at several locations since 2013). With regard to the presence of ambient air monitors, the nearest air monitors are located in Seaford and at Killens Pond in Felton. Both these monitors analyze for particulate matter emissions (PM2.5). Based on particle size, PM2.5 emissions are widely dispersed, and are therefore a regional issue rather than a localized issue. Both these monitors show compliance with the National Ambient Air Quality Standards for PM2.5.

With regard to the concerns voiced about the new equipment's efficiency, the DAQ notes that the replacement baghouse filters are 99.99% efficient, and are guaranteed by the manufacturer. The operating parameters of the newly installed equipment will be monitored to ensure proper operation. Should those parameters fall outside of the permitted range, corrective action will be required. Moreover, as noted previously, the Department will conduct a Construction-to-Operation inspection upon start-up at the Applicant's Millsboro facility.

Lastly, with regard to the odor concerns associated with Mountaire's operations in Millsboro, the DAQ's TRM notes that the Kent County 911 operators log each call received. That information is then forwarded to the Department's Environmental Protection Officers ("EPOs") that are on call. Only a resident can make an official odor complaint (calls from the road cannot be registered). Since the public hearing on November 26, 2018, the Department's EPOs and DAQ have been working together to diligently address all incoming complaints from the community.

The Department recognizes that the public has voiced concerns associated with both the air quality and the odors which are prevalent in the community surrounding Mountaire's complex in Millsboro. However, DAQ permits are issued based upon applicable regulations, and, through the use of air quality screening models, the maximum downwind concentration has been verified to be well under threshold limit values. The record developed in this matter indicates that the Department's experts have considered all statutes and regulations that govern such projects, and have recommended issuance of all permits necessary for the same to the Applicant in this matter.

I find and conclude that the Applicant has adequately demonstrated its compliance with all requirements of the statutes and regulations, as noted herein, and that the Record supports approval of the Applications submitted by Mountaire Farms of Delaware, Inc. Accordingly, this Order approves and directs all permits required for the Applicant to replace both the aforementioned existing hammermill baghouse and existing pellet cooler at Mountaire's facility located at 29106 John J. Williams Highway, Millsboro, Delaware, consistent with the record developed in this matter, be issued by the Department in the customary form, and with appropriate conditions.

Further, the Department concludes and directs the following:

1. The Department has jurisdiction under 7 *Del. C.* §§6003, 6004, 6006(4), and all other relevant statutory authority, to make a final determination on these Applications, after holding a public hearing and considering the public comments and all information contained in the Record generated in this matter;
2. The Department provided proper public notices of the Applications submitted by Mountaire Farms of Delaware, Inc., and of the public hearing held on November 26, 2018, and held said hearing in a manner required by the law and regulations;
3. The Department considered all timely and relevant public comments in the Record, as established in the Report, prior to issuing this Order as its final decision;

4. The Department has carefully considered the factors required to be weighed in issuing all permits required by the Applicant's proposed replacement of both an existing hammermill baghouse and an existing pellet cooler, and finds that the Record supports approval of the Applications, and the issuance of all required permits associated with same;
5. The Department shall issue all necessary construction permits to Mountaire Farms of Delaware, Inc., for the replacement of an existing hammermill baghouse and an existing pellet cooler at Mountaire's facility located at 29106 John J. Williams Highway, Millsboro, Delaware. Furthermore, said permits shall include all conditions as set forth in the Department's draft permits, to ensure that Delaware's environment and public health will be protected from harm;
6. The Department adopts the Report and its attachments as further support for this decision;
7. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and
8. The Department shall serve and publish its Order on its internet site, and shall provide legal notice of the Order in the same manner that the Department provided legal notice of the Application.

  
Shawn M. Garvin  
Secretary

