



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL**

OFFICE OF THE
SECRETARY

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Secretary's Order No. 2016-CZ-0043

Re: Ultrachem, Inc.'s Application for a Coastal Zone Act Permit to Expand Manufacturing of Synthetic Lubricants at 900 Centerpoint Boulevard, New Castle, New Castle County (CZA Permit No. 426P)

Date of Issuance: 10/28/2016
Effective Date: 10/28/2016

Pursuant to the *Coastal Zone Act* ("CZA"), 7 Del. C. Chap. 70, 7 Del. C. Chap 60 the Department's *Coastal Zone Act regulations*, 7 DE Admin. Code §101 and other relevant authority, the Secretary of the Department of Natural Resources and Environmental Control ("Department") enters the following findings of fact, reasons and conclusions as a Secretary's Order following a public hearing on Ultrachem, Inc.'s ("Applicant") CZA permit application ("Application").

Procedural History and Findings of Fact

On August 24, 2016, the Department's CZA Program received the Application, which seeks a CZA permit to expand synthetic lubricant manufacturing at 900 Centerpoint Boulevard, New Castle, New Castle County ("Facility") from 600,000 gallons to 1.5 million gallons annually. The Department properly provided public notice of the receipt of the Application. The Department determined that the Application was administratively complete in the September 14, 2016 Secretary's Environmental Assessment, and properly provided public notice of the October 12, 2016 public hearing to be held on the Application at the Department's Lukens Drive office in New Castle.

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The Department hearing officer, Robert P. Haynes, presided over the public hearing. Attending the public hearing were Kevin Coyle from the CZA Program, and the Applicant has its consultant, Andrea Kreiner, and its President, Robert Whiting. Two members of the public attended. The public comment period ended at the conclusion of the public hearing and the Department did not receive any public comments.

Following the public hearing, Mr. Haynes sought the recommendation of the CZA Program, which provided a Technical Response Memorandum (“TRM”) that recommended issuance of the draft permit that the CZA Program prepared. In the attached Hearing Officer’s Report (“Report”), Mr. Haynes sets forth the complete procedural history, the findings of fact, the conclusions and reasons based upon his recommendation to approve the Application. The Report includes the CZA Program’s TRM as an attachment. The Report is adopted to the extent it is consistent with this Order.

The Application proposes to expand the Applicant's current CZA approved manufacturing of synthetic lubricants at the Facility, which is within the Coastal Zone. The proposed increase would result in increased air emissions, which the Applicant proposed to offset by the purchase of a replacement motor vehicle that will emit lower air emissions that will more than offset the increased emissions from the expanded manufacturing.

The Department finds that the proposed expansion of the manufacturing will cause increased air emissions, but that the proposed environmental offset will result in a net reduction in air emissions in the Coastal Zone. The expansion of manufacturing does not entail any “heavy industry use” as defined by the CZA, but instead the expansion of

the permitted manufacturing of synthetic lubricants at the Facility that uses less than 20 acres of land and has manufacturing characteristics that are not similar to the CZA's definition of "heavy industry use."

The Application proposes expanding the manufacturing, as permitted by CZA Permit No. 282 issued June 6, 1996, from 600,000 gallons per year to 1,500,000 gallons per year. The manufacturing entails using storage tanks to blend basic polyalphaolefins, diesters, polyol esters pentaerythritol, polyalkylene glycols and silicone into synthetic lubricants. The proposed expansion would not require any new equipment or land area from the existing 2.82 acres currently used and the increased output will be from increasing the usage of its existing equipment. The Applicant's current rate of manufacturing is approaching the current CZA permit's limit, and the Application seeks approval to manufacture up to 1.5 million gallons. The increased manufacturing limit would allow future growth over an extended time period. The expansion would increase air emissions of volatile organic compounds ("VOCs") by 137 pounds per year, or 0.069 tons, once the Facility reaches its increased capacity, which is the only negative impact on the Coastal Zone.

The Applicant proposed as its environmental offset to purchase a replacement motor vehicle for its 2011 Toyota Camry. The proposed replacement vehicle is a Ford Fusion Hybrid or its equivalent, which should reduce annual air emissions by 15.56 lbs. for VOC, 10.44lbs. for Nitrogen Oxides, and 5,549 lbs. for Carbon Dioxide. The total air emissions reductions of 5,575 lbs./yr. will more than offset the increased VOC emissions of 137 lbs./yr.

The Secretary's Assessment accepted the Application as complete, including the proposed offset as consistent with the CZA Regulations. The Department finds that the proposed expansion does not negatively impact the Coastal Zone in any other way and that the proposed expansion of the limit on the existing manufacturing capacity should be approved as consistent with the CZA. The Report found that nothing in the Record supported any change to the Secretary's Assessment's determination that the offset sufficiently provided air emissions reductions to more than offset the modest increased air emissions.

The Applicant proposes to hire two employees and to transfer two employees to Delaware to implement the increase rate of manufacturing, and the increased manufacturing will provide Delaware with increased annual tax revenue estimated in excess of \$1 million.

In sum, the Record supports approval of the Application because it satisfies the requirements of the CZA and the CZA Regulations.

Conclusions and Reasons

The Department concludes that the Applicant has met its regulatory burden to support its Application. The CZA Program's experts reviewed the Application and the Record and recommended that the Department issue the CZA permit as drafted by the CZA Program.

The Department enters the following conclusions:

1. The Department has jurisdiction and the authority to issue a CZA Permit to the Applicant;

2. The Department provided public notices in a manner required by the law and its regulations of the receipt of the Application, the determination that the Application was complete, and of the public hearing on the Application;

3. The Department held a public hearing in a manner required by the CZA and its regulations;

4. The Department did not receive any public comments on the Application;

5. The Department carefully has considered all the factors to be considered in making a decision on a CZA permit application under the CZA and the CZA Regulations based upon the Record established in the Report; and

6. The Department shall publish legal notices of this Order and otherwise provide notice as to all affected persons in a manner consistent with the public notice required by the law and the Department's CZA Regulations, and shall publish the Order on the Department's web site.



David S. Small
Secretary

**DELAWARE
COASTAL ZONE ACT
PERMIT**

NUMBER: 426

ISSUED TO: Ultrachem, Inc.

TO PERMIT: The increase in throughput capacity of blended synthetic lubricants from their current permitted capacity of 600,000 gallons annually to 1,500,000 gallons annually.

SITE LOCATION: 900 Centerpoint Boulevard, Centerpoint Business Complex, New Castle, Delaware

Conditions Incorporated and Made Part of this Permit:

Standard:

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 of scale of the project and to be of actually or probably harm to the purposes of the Coastal Zone Act.

Signature: _____



Date: _____

10/28/16

David S. Small, Secretary

Department of Natural Resources & Environmental Control

HEARING OFFICER'S REPORT

TO: The Honorable David S. Small
Secretary, Department of Natural Resources and Environmental Control

FROM: Robert P. Haynes, Esquire
Senior Hearing Officer, Office of the Secretary
Department of Natural Resources and Environmental Control

RE: **Ultrachem, Inc.'s Application for a Coastal Zone Act Permit to Expand Manufacturing of Synthetic Lubricants at 900 Centerpoint Boulevard, New Castle, New Castle County (CZA Permit No. 426P)**

DATE: October 24, 2016

I. PROCEDURAL HISTORY

This Report considers the Record established for the Secretary of the Department of Natural Resources and Environmental Control ("Department") on Ultrachem, Inc.'s ("Applicant") Coastal Zone Act¹ ("CZA") permit application ("Application").

On August 24, 2016, the Department's Coastal Zone Act Program ("CZA Program") received PDI's Application.

On August 28, 2016 and August 31, 2016, the CZA Program had published public notices of the Application published in *The News Journal* and the *New Castle Weekly*, respectively.

On September 14, 2016, Secretary David S. Small signed the Secretary's Environmental Assessment, which determined that the Application was administratively complete.

The CZA Program had public notices of a completed Application and an October 12, 2016 public hearing at the Department's offices at 391 Lukens Drive, New Castle, New Castle County published in *The News Journal* and in the *New Castle Weekly* on September 18, 2016 and September 21, 2016, respectively.

¹ 7 Del. C. Chap. 70.

I presided over the public hearing. Attending the public hearing were CZA Program representative Kevin Coyle, AICP CEP, Principle Planner, Applicant's President, Robert Whiting, Applicant's consultant, Andrea Kreiner, and two members of the public. The public comment period closed at the conclusion of the public hearing, and the Department did not receive any public comments on the Application.

Following the public hearing, the CZA Program provided the attached memorandum dated October 21, 2016, in which the CZA Program provides its expert recommendation that the Department issue a draft CZA permit.

II. SUMMARY OF THE RECORD²

This Report is based upon the following Record: 1) the documents introduced as exhibits at the public hearing and identified below, 2) the verbatim transcript of the public hearing, and 3) the information in this Report and the documents and information identified herein.

At the public hearing, Mr. Coyle submitted the following documents³ from the Department's files, which were marked as exhibits:

- DNREC Exhibit 1- Application for a Coastal Zone Act Permit, dated July 12, 2016; amended, August 18, 2016 and received on August 24, 2016;
- DNREC Exhibit 2- *The News Journal* Affidavit of Publication of public notice of receipt and availability of the Coastal Zone Act Permit application received August 28, 2016;
- DNREC Exhibit 3- *New Castle Weekly* Affidavit of Publication on August 31, 2016 of the public notice of the receipt and availability of the Coastal Zone Act Permit application;
- DNREC Exhibit 4- Secretary's Environmental Assessment Report, signed September 14, 2016 that determines administratively complete Application; and
- DNREC Exhibit 5- *The News Journal* Affidavit of Publication on September 18, 2016 of public notice of a completed Application and an October 12, 2016 public hearing; and

² This summary merely summarizes the Record and does not establish facts.

³ The Department provides documents for the record at the public hearing solely to assist the public in making public comments. The Department does not have a burden of proof to develop a record during the public hearing.

DNREC Exhibit 6- *New Castle Weekly* Affidavit of Publication on September 21, 2016 of the public notice of a completed Application and an October 12, 2016 public hearing.

In addition, the public hearing sign in sheet is included as DNREC Exhibit 7.

I requested assistance from the Department's CZA experts, who provided the attached TRM dated October 21, 2016. The TRM recommends issuance of CZA Program's draft permit should the Secretary decide to issue a CZA permit.

III. FINDINGS OF FACT, REASONS AND CONCLUSIONS

A review of the Record finds that it supports the issuance of a CZA permit based upon the Application, the CZA Program's recommendation and the CZA Program's draft permit.

There were no public comments on the Application.

The Application provided the Department with all the information required by the CZA Regulations, as recognized by the September 14, 2016 Secretary's Environmental Assessment. The Application proposes expanding the manufacturing permitted by CZA Permit No. 282 issued June 6, 1996 from 600,000 gallons per year to 1,500,000 gallons per year.

The manufacturing entails using storage tanks to blends basic polyalphaolefins, diesters, polyol esters pentaerythritol, polyalkylene glycols and silicone into synthetic lubricants. The proposed expansion would not require any new equipment or land area from the existing 2.82 acres currently used and the increased output will be from increasing the usage of its existing equipment. The Applicant's current rate of manufacturing is approaching the current CZA permit's limit, and the Application seeks approval to manufacture up to 1.5 million gallons. The increased manufacturing limit would allow future growth over an extended time period.

The proposed expanded manufacturing would increase air emissions of volatile organic compounds ("VOCs") by 137 pounds per year, or 0.069 tons, which is the only negative impact on the Coastal Zone. This increase to the total requested expansion will not occur soon, but will

occur gradually as market conditions warrant. The Applicant proposed as its environmental offset to the negative impact of minor VOC emissions the purchase of a replacement motor vehicle for Applicant's 2011 Toyota Camry with a lower emission vehicle such as a Ford Fusion Hybrid or its equivalent. The replacement vehicle would reduce the following annual air emissions: 15.56 lbs. of VOC, 10.44lbs. of Nitrogen Oxides, and 5,549 lbs. of Carbon Dioxide, or a total air emissions reductions of 5,575 lbs./yr. This total reduction complies with the CZA Regulations that require an environmental offset that more than offsets the proposed negative impacts.

The Applicant seeks the CZA permit to allow expansion of its current manufacturing of synthetic lubricants, which will not require any additional equipment or construction. Instead, the Applicant will use the existing equipment to produce more of the lubricants previously approved in the Applicant's current CZA permit no certain including applying the appropriate analysis of the proposed increased manufacturing's environmental impacts. The Department already accepted the Application in the Secretary's Environmental Assessment, and there was nothing in the Record from the public hearing that supports any change to the Secretary's Environmental Assessment.

The CZA considerations of the manufacturing's impact are unchanged from the Department's approval of the prior CZA permit. The Applicant proposes to hire two employees and to transfer two employees to Delaware to implement the increase rate of manufacturing, and the increased manufacturing will provide Delaware with increased annual tax revenue estimated in excess of \$1 million. Thus, this economic benefit is consistent with the CZA's dual purposes to promote economic development and the protection of the Coastal Zone's environment. I find and conclude that the Applicant has met its regulatory burden to support its Application. The

CZA Program's experts reviewed the Application and the Record and recommend that the Department issue the CZA permit, as drafted by the CZA Program.

Accordingly, I recommend that the Department enter the following conclusions:

1. The Department has jurisdiction and the authority to issue a CZA Permit to the Applicant;
2. The Department provided public notice in a manner required by the law and its regulations of: the receipt of the Application, the determination that the Application was complete, and the public hearing on the Application;
3. The Department held a public hearing in a manner required by the CZA and its regulations;
4. The Department did not receive any public comments on the Application;
5. The Department carefully has considered all the factors to be considered in making a decision on a CZA permit application under the CZA and the CZA Regulations based upon the Record established in the Report; and
6. The Department shall publish legal notices of this Order and otherwise provide notice as to all affected persons in a manner consistent with the public notice required by the law and the Department's CZA Regulations, and shall publish the Order on the Department's web site.



Robert P. Haynes, Esquire
Senior Hearing Officer



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And Environmental Control

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MEMORANDUM

TO: David S. Small, Secretary

THRU: Philip J. Cherry, Director 

FROM: Kevin F. Coyle, AICP CEP, Principal Planner 

DATE: October 21, 2016

SUBJECT: Ultrachem, Inc. CZA Permit Application

The Coastal Zone Act Program has reviewed the file regarding the CZA Permit Application from Ultrachem, Inc. The Program has no further comments or concerns. We recommend that the CZA Permit be issued.

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COASTAL ZONE ACT
PERMIT**

NUMBER: 426

ISSUED TO: Ultrachem, Inc.

TO PERMIT: The increase in throughput capacity of blended synthetic lubricants from their current permitted capacity of 600,000 gallons annually to 1,500,000 gallons annually.

SITE LOCATION: 900 Centerpoint Boulevard, Centerpoint Business Complex, New Castle, Delaware

Conditions Incorporated and Made Part of this Permit:

Standard:

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 of scale of the project and to be of actually or probably harm to the purposes of the Coastal Zone Act.

Signature: _____ Date: _____

David S. Small, Secretary
Department of Natural Resources & Environmental Control