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DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
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Office of the
Secretary

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Secretary's Order No.: 2019-A-0036

RE: Natural Minor Permit Application of Walan Specialty Construction Products, LLC, pursuant to 7 DE Admin. Code 1102, to construct and operate a Granulated Blast Furnace Slag Grinding, Drying, and Processing Facility, located at 501 Christiana Avenue, Wilmington, Delaware

Date of Issuance: August 19, 2019

Effective Date: August 19, 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 a Natural Minor Permit Application of Walan Specialty Construction Products, LLC ("Walan," "Applicant"), pursuant to 7 DE Admin. Code 1102, to allow for the construction and operation of a new facility to be located at 501 Christiana Avenue in Wilmington, Delaware. Specifically, Walan proposes to construct and operate a Granulated Blast Furnace Slag ("GBFS") grinding, drying, and processing facility, consisting of one (1) feed hopper, two (2) bucket elevators, two (2) 1,100 ton storage silos, one (1) mill used to dry and grind the unprocessed GBFS, and one (1) baghouse used for air pollution control and product recovery ("Application").

The Applicant's proposed project is 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

To provide clarity for the benefit of the hearing record (“Record”) developed in this matter, it should be noted that a public hearing (concerning a prior permit application package submitted to the Department by Walan) was previously held by the Department on April 25, 2018. During the technical review of that application by the Department’s Division of Air Quality (“DAQ”), some inconsistencies were noted with Walan’s Environmental Applicant Background Statement. Specifically, the Applicant failed to include an accurate account of the compliance history for its facilities located in the Commonwealth of Pennsylvania, which operate under the name of Penn Mag, Inc. This rendered the information presented at the Department’s April 25, 2018 public hearing defective. As a result, on August 28, 2018, Walan notified the Department of its withdrawal of that application (without prejudice). A new DAQ permit application package was submitted to the Department on October 19, 2018. The information contained in the Hearing Officer’s Report (“Report”) associated with this Order details the information generated as the result of the Record developed in this present matter, and is not a continuation of the prior hearing record arising from the previous public hearing of April 25, 2018.

The owner of this company (operating under the name “Penn Mag, Inc.” in locations in Adrian, Pennsylvania, and Claysburg, Pennsylvania) has applied for a Natural Minor Permit, pursuant to 7 DE Admin. Code 1102, to construct and operate a GBFS grinding, drying, and processing facility here in Delaware, to be operated under Walan’s name, as noted above. Pursuant to this Application, unprocessed GBFS material will be transported to the Walan facility via tarped trucks from offloading of ships docked at the Port of Wilmington. The trucks will travel from the Port on Christiana Avenue to the proposed facility at 501 Christiana Avenue, and will not travel near any residential areas during delivery.

Once received at Walan's proposed facility, the GBFS will be processed through a grinder (or grinding mill) with a natural gas fired heater for storage and eventual load-out into enclosed trucks through the use of dustless load-out chutes. The particulate matter emissions will be controlled by cartridge filters, which are used to capture any dust displaced from the enclosed trucks. The truck load-out area under the silos will be enclosed to help prevent any fugitive dust from escaping into the atmosphere.

As noted above, the Application submitted by Walan was received by the Department on October 19, 2018. Thereafter, the legal notice advertising the public hearing to be held in this matter was published in both the *Sunday News Journal* and the *Delaware State News* on October 28, 2018. The Department held its public hearing concerning this matter on November 20, 2018, which was attended not only by Department staff and representatives of the Applicant, but also by numerous members of the public. Comment was received from the public with regard to this Application, both at the time of the hearing and during the post-hearing period of this procedural matter. As a result of the public interest in this Application, and in response to requests made by the public for the Department to extend the public comment period, the Record remained open for receipt of comment through Monday, December 31, 2018. Proper notice of the hearing was provided as required by law.

The Record generated in this matter indicates that numerous members of the public offered comments regarding this Application. These comments were made by citizens who are concerned about the air quality in New Castle County, and, specifically, the potential environmental (and human health) impacts of the Applicant's operations at its proposed facility in Wilmington, Delaware. Concerns were also raised by members of the public as to the Applicant's past environmental compliance history of the Penn Mag, Inc. facilities located in the Commonwealth of Pennsylvania, whether the Applicant had also applied for a Coastal Zone Permit from the Department, and whether the potential issuance of this permit to Walan would disregard Environmental Justice concerns of the surrounding communities along the Route 9 corridor in northern Delaware.

Following the public hearing of November 20, 2018, the technical experts in the Department's DAQ prepared a Technical Response Memorandum ("TRM") to (1) specifically address the concerns associated with this pending Application, 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 project; and (3) offer DAQ's conclusions and recommendations with regard to this Application for the benefit of the Record generated in this matter. This TRM was subsequently received from DAQ for inclusion into the 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 Application 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 Walan's Application, which was the subject matter of the public hearing held by the Department on November 20, 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 this Application, subject to the conditions set forth in the following draft Permit: APC-2019/0030 – Construction. The Report also addressed the public comments received in this matter, and concluded that the same did not warrant the Department's denying this Application, or delaying this permit decision to receive additional information.

REASONS AND CONCLUSIONS

The pending Application submitted to the Department by the Applicant in this matter is for a DAQ construction permit, pursuant to 7 DE Admin. Code 1102, to construct and operate a GBFS grinding, drying, and processing facility at 501 Christiana Avenue, Wilmington, Delaware. I find that the proposed project requires the Applicant to obtain a DAQ construction permit for the aforementioned facility to be constructed at the location noted above. I further find that the Applicant's proposed project is subject to various state and federal regulatory requirements, 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 DAQ experts have concluded that the aforementioned proposed construction project complies with all federal and state air pollution control laws and regulations. The aforementioned construction permit, once issued by the Department's DAQ, will be reflective of the Application submitted, and will include the most stringent federal and state regulatory requirements applicable to the proposed facility.

In response to the above referenced comments received from the public in this matter, the Department has sought to minimize the impacts to the surrounding communities. To that end, the Department has made the following determinations:

1. In its evaluation of this project, DAQ reviewed local modeling of the emissions, and calculated emissions based on the potential to emit of the source (which is the worst-case emissions from the facility operating at full capacity). The Department calculates emissions estimates in tons per year. Those estimates are then compared to the regulatory threshold values, to ensure that the concentration at the fence line will be at least 100 times lower than the Threshold Limit Value (the permissible worker exposure level). The classification of the source as either a major or minor source of emissions is based on the facility's potential to emit. Based on the potential to emit from the proposed facility, this source will be classified as a natural minor source.

2. At the time of the November 20, 2018 public hearing, the Applicant's representatives presented a detailed summary of the results of the cumulative impact on emissions. The predicted emissions from the source were then added to the pollutant concentration results from the 2016 DNREC Ambient Air Quality Report, and compared to the National Ambient Air Quality Standards. The nearest Federal Reference Method Ambient Air Quality Monitoring Station (from which the results were obtained) is located on Martin Luther King Boulevard in Wilmington, Delaware. The combined total emissions concentration were below the National Air Quality Health Standards, as established under the Federal Clean Air Act to protect public health and welfare.
3. Through the Department's use of air quality screening models, DAQ has verified the maximum downwind concentration to be well under the aforementioned Threshold Limit Value (which, again, is the permissible worker exposure level).
4. The proposed location of the facility at 501 Christiana Avenue, Wilmington, Delaware, will be northwest of Interstate 495, which is not physically located within Delaware's Coastal Zone. Thus, no Coastal Zone Permit is needed from the Department in this matter. Additionally, that location is an area zoned "W-1" (waterfront manufacturing), and thus the proposed use of the premises (e.g., for a GBFS grinding operation) is permitted, per Wilmington Code, Section 48-336(b)(1). It should be noted that such zoning determinations are made by the local government, and not by DAQ or the Department in general.
5. The Department will require installation of best available control technology at the proposed facility to minimize any offsite impact of particulate emissions, which will be generated by the source as a result of its drying and grinding operations. Additionally, DAQ has included a Fugitive Dust Control Plan as a condition in the permit, which will require adherence to the following best management practice protocols:

- Maintenance of a neat and orderly work environment, both indoors and outdoors;
- Prompt cleanup of any spilled GBFS material;
- Maintenance of a neat and orderly storage of materials, including adding water (as needed) to any stockpiled material, and keeping the stockpiles and material delivery trucks tarped;
- Limitation of the use of truck traffic to paved roadways and sweeping surfaces, and control of track activity by enforcing speed limits;
- Installation of curtain doors below the storage silos for the unloading of finished materials into enclosed trucks for delivery;
- Establishment of specified truck routes for the finished product (which will avoid residential areas);
- Employee training on the proposed use of fugitive dust control measures on an annual basis (or, on an as-needed basis, should facility procedures or operations change); and
- Daily routine inspections to identify any conditions which could lead to fugitive dust emissions and potential dust generating activities.

As a further clarification of the Record developed in this matter, this Order recognizes that, during DAQ's initial review of this Application, Walan indicated that the maximum throughput of material at its facility would be 262,800 tons per year of GBFS. In order to receive shipments of this material in the Port of Wilmington, Port Contractors requested an amendment to their permit to receive and classify this material under the "Class C" material category. Port Contractors indicated at that time that the total GBFS material received would be 150,000 tons per year, or, approximately three 50,000-ton shipments. This was inconsistent with what Walan had applied for in its Application. Additionally, in its revised Fugitive Dust Control Plan, the Applicant noted that the total throughput of GBFS would be 150,000 tons per year. In order to correct these discrepancies, Walan provided the Department with an amended Application on March 5, 2019, to accurately reflect the actual throughput requested as 150,000 tons per year (since this is an inherent constraint in what the Port Contractor is willing to accept).

The corrected Application submitted by Walan, as described above, does not require any further public notice, since the process emissions calculations in the original Application were based on the initially stated 262,800 maximum throughput, and the subsequent change to 150,000 tons per year maximum throughput will result in lower overall process emissions. The corrected Application also includes a reduction in height of the storage silos, since the City of Wilmington has a maximum height allowance, which the proposed silos in the initial application exceeded.

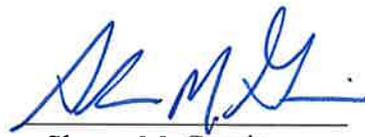
The Record developed in this matter indicates that the Department's experts have considered all statutes and regulations that govern projects such as this proposed GBFS facility, and have recommended issuance of the DAQ permit necessary for the same to the Applicant in this matter. I find and conclude 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 Application submitted by Walan.

Accordingly, this Order approves and directs that DAQ Regulation No. 1102 Natural Minor Permit APC-2019/0030 – Construction, to construct and operate a GBFS grinding, drying, and processing facility at 501 Christiana Avenue, Wilmington, 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 this Application, 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 notice of the Application submitted by Walan, and of the public hearing held on November 20, 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 the permit required by this Application, and finds that the Record supports approval of the Application, and the issuance of the construction permit associated with same;
5. The Department shall issue DAQ Natural Minor Construction Permit APC-2019/0030 – Construction, pursuant to 7 DE Admin. Code 1102, to Walan for the construction and operation of a GBFS grinding, drying, and processing facility at 501 Christiana Avenue, Wilmington, Delaware, consistent with the Record developed in this matter. Furthermore, said permit shall include all conditions as set forth in the Department’s draft permit, 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

