



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: 2019-CZ-0049

RE: Application of Delaware Storage and Pipeline Company, for a Coastal Zone Act Permit to construct a new storage building and undergo a process change to inject chemicals into the jet fuel supplied to Dover Air Force Base onsite at its existing facility located at 987 Port Mahon Road, Little Creek, Delaware.

Date of Issuance: December 15, 2019

Effective Date: December 15, 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. §§6001 et seq.*, *7 Del.C. Ch. 70, Coastal Zone Act*, and *7 DE Admin. Code 101, Regulations Governing Delaware's Coastal Zone*, the following findings of fact based on the record, reasons, and conclusions are entered as an Order of the Secretary in the above-referenced Coastal Zone Act permitting proceeding.

Background and Findings of Fact

Delaware Storage and Pipeline Company ("Applicant" or "DSPC") seeks a Coastal Zone Act ("CZA") Permit to construct a new storage building and to undergo a process change to inject three jet fuel additives (an anti-static agent, corrosion inhibitor, and icing inhibitor) into the jet fuel supplied to Dover Air Force Base ("DAFB") onsite at its existing facility located at 987 Port Mahon Road, Little Creek, Delaware ("Application").

The Applicant is currently grandfathered into the Coastal Zone as a non-conforming use, and its activity is considered a heavy industry use, as defined by the Delaware's *Coastal Zone Act*, specifically, at 7 *Del.C.* §7002(d). As such, no CZA permit currently exists for this site. In 2018, DSPC submitted a request for a status decision (CZA Project 434SD), and was subsequently notified by the Department that the proposed activity would require a CZA permit.

The Applicant serves as the sole provider of jet fuel for DAFB. Currently, DSPC receives the three fuel additives pre-blended prior to delivery to their facility, however, the U.S. Department of Defense is now looking to bring consistency and cost-effectiveness to its fuel delivery and handling systems by requiring facilities such as DSPC to have the necessary equipment onsite to add these products into their fuel delivery systems. It should be noted that these same fuel additives already exist within the jet fuel currently delivered to the DAFB, and are federally regulated to meet North Atlantic Treaty Organization standards, to enhance safety and operational purposes.

The proposed process would require DSPC to construct a 242-square-foot building to hold two separate 250-gallon metal totes for storage of the anti-static agent and corrosion inhibitor. The Applicant also plans to use a 12,000-gallon horizontal tank to store the icing inhibitor. Both of these additions would be constructed within an existing tank farm on the property. The anti-static agent and corrosion inhibitor are proposed to be delivered to the facility in 55-gallon drums and transferred to the totes using a valve injection system, where they would be fed into the pipeline conveying jet fuel from the barge dock to the storage tanks. The icing inhibitor would be delivered via tanker truck, approximately 5,000 gallons at a time, and then offloaded from a tanker and pumped into the 12,000-gallon storage tank through a dedicated pipeline.

The Applicant has modeled its proposed process based upon a similar process currently utilized at McGuire Air Force Base (“McGuire”) in New Jersey. The McGuire Operations and Monitoring protocols were relied upon by DSPC in the development of the proposed process for its existing Delaware facility, and details regarding those protocols are included in the Application. The Applicant maintains that such documentation contained within its Application demonstrates that DSPC will have appropriate training and safety protocols in place at its Delaware facility to ensure safe operation of the proposed process. The Applicant further maintains, however, that the public release of such documentation may ultimately jeopardize the security of sites such as DSPC, and thus the Applicant has requested that the same be kept confidential by the Department at this time.

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 must more than offset the environmental impacts of any proposed project, pursuant to Section 9.0, "Offsets" of Delaware's Coastal Zone Regulations.

Pursuant to Section 8.3.2 of Delaware's CZA Regulations, the Secretary shall, in assessing CZA permit applications, consider how a proposed project will affect the following six criteria, as set forth in 7 *Del. C. Ch. 70, Coastal Zone Act*: (1) Direct and cumulative environmental impacts; (2) Economic effects; (3) Aesthetic effects (4) Number and type of supporting facilities and their anticipated impacts; (5) Effect on neighboring land uses; and (6) Compatibility with local comprehensive plans. 7 *Del. C. § 7004(b)*.

In the present matter, the proposed project will have *de minimis* air emissions associated with the delivery via truck of the three jet fuel additives, as described above. The proposed operation will not result in changes in water use, nor in water discharge to surface waters. Additionally, the proposed construction is less than 5,000 square feet of impervious surface and is therefore not subject to the Department’s regulatory requirements for stormwater management under 7 DE Admin. Code 5101 § 1.4.2. Stormwater will infiltrate onsite around the structures. The proposed project site is small and flat. Building construction and tank and pipeline installation will result in minor, yet temporary, soil disturbance.

The Applicant will collect, transport and dispose of any solid waste created as a result of the project construction at an appropriate facility. In addition, the Applicant will appropriately remove and dispose empty containers of anti-static and anti-corrosive additives. There will be no generation of hazardous waste.

Wetlands exist within the land parcel, but not within the proposed construction area. Wetlands will not be impacted by project activities. No other habitats for flora and fauna exist in the proximate area. Additionally, the project is in keeping with the existing general industrial zoning for the site, and for the existing infrastructure of the tank farm. The proposed activity will be similar to existing activity.

With regard to threatened or endangered species, the facility location is close to the Delaware Bay, where migratory shorebirds such as the red knot (listed as a threatened species), stopover in the spring and fall. The proposed project will not impact the shoreline, and the birds are not known to nest on the project site.

Insofar as anticipated economic impacts, short-term employment opportunities will be created during the estimated 8-week construction period of the project. Welders, as well as concrete and building installers, are estimated to earn \$8,000 per week. No new employees will be hired at the site as a result of this project. There are no expected economic impacts due to environmental degradation, as such impacts are *de minimis*.

As noted previously, the DSPC facility has been in operation since 1960, and includes several storage tanks and operational buildings that are visible from Port Mahon Road. The proposed project will add one storage tank and one small building to the structures currently existing at the Applicant's site. These are consistent with the current aesthetics. No changes to supporting facilities are proposed.

There is no anticipated effect on neighboring land uses associated with the proposed project. The closest residence is approximately 1,110 feet away from the project location. The facility does not interfere with a person's ability to access recreational facilities or resources. In the event of a "worst-case" scenario where the entire contents of the 12,000-gallon tank spilled, the environmental impacts are not expected to interfere with nearby existing businesses, commercial, or manufacturing uses.

Insofar as the proposed project's compatibility with county and municipal comprehensive plans, the Applicant was granted an approval (effective January 17, 2019) from the Kent County Board of Adjustment ("Board") for a variance to enable a 5% expansion of a legal non-conforming fuel storage facility, per Department Exhibit # 2, attachment 5. In its Notice of Decision, the Board noted that there is no negative impact to adjacent property owners, and that the proposed project represents a modest increase to the Applicant's current facility.

With regard to the Applicant's offset proposal in this matter, Section 9.1.1 of the CZA Regulations states that any application for a CZA permit for an activity or facility that will result in a negative environmental impact shall contain an offset proposal. Moreover, such offset proposals must "...more than offset the negative environmental impact associated with the proposed project of activity requiring a permit." DNREC Policy stipulates that negative environmental impacts resulting from projects requiring a CZA Permit be offset at a 1.3:1 ratio. In the present case, however, the anticipated air emissions and overall environmental impacts associated with the proposed project will be *de minimis*, and thus the Department's CZA Program does not require DSPC's offset proposal to meet this ratio.

The Applicant has proposed a one-time donation of \$1,000 to Kent County Conservancy for the purpose of land conservation within the designated Coastal Zone in Kent County, Delaware. Based upon the Applicant's calculations and methodology as set forth in the Secretary's Assessment Report of October 25, 2019, the \$1,000 donation for land conservation as proposed by DSPC satisfies the Department's offset standard.

Procedural History

The Department initially received the CZA permit application of Delaware Storage and Pipeline Company on October 15, 2019. The Applicant's CZA permit application was then determined to be administratively complete by my signing of the Secretary's Environmental Assessment Report on October 25, 2019. Thereafter, the Department held a public hearing at the DNREC offices located at 89 Kings Highway, Dover, Delaware on Tuesday, November 19, 2019. Proper notice of the hearing was provided as required by law.

The Department's person primarily responsible for reviewing this CZA Application, Erin Wilson, Environmental Scientist III, Division of Climate, Coastal, and Energy, developed the hearing record ("Record") with the relevant documents in the Department's files. There was only one member of the public in attendance at the public hearing held in this matter, however no public comment was received by the Department concerning this Application. At the conclusion of the public hearing, the Record was closed with regard to public comment. The Department's presiding Hearing Officer, Theresa Newman, prepared a Hearing Officer's Report dated November 26, 2019 ("Report").

Reasons and Conclusions

Based on the record developed by the Department's experts and established by the Hearing Officer's Report, I find and conclude that the Record developed in this matter supports approval of Delaware Storage and Pipeline Company's application for a CZA permit, consistent with the intent of Delaware's *Coastal Zone Act* and the *Regulations Governing Delaware's Coastal Zone*, which is to balance the economic and environmental interests of the State of Delaware. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that a CZA permit be issued to the Applicant to construct a new storage building and undergo a process change to inject three jet fuel additives (an anti-static agent, corrosion inhibitor, and icing inhibitor) into the jet fuel supplied to DAFB onsite at its existing facility located at 987 Port Mahon Road, Dover, Delaware.

I further direct that the following reasons and conclusions are entered:

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 Delaware Storage and Pipeline Company and of the public hearing held on November 19, 2019, and held said hearing to consider any public

comment that may be offered on the application, in a manner required by the law and regulations;

3. The permit applied for by Delaware Storage and Pipeline Company, is for production/manufacturing activities which will take place within the defined Coastal Zone of Delaware, specifically, to construct a new storage building and undergo a process change to inject three jet fuel additives (an anti-static agent, corrosion inhibitor, and icing inhibitor) into the jet fuel supplied to DAFB onsite at its existing facility located at 987 Port Mahon Road, Dover, Delaware. Environmental impacts are anticipated, however, the same are *de minimis*, and are therefore not required to meet the above referenced DNREC policy offset standard of 1.3:1. The Applicant has proposed a one-time donation of \$1,000 to Kent County Conservancy for the purpose of land conservation within the designated Coastal Zone in Kent County, Delaware. The Department has certified this proposed offset to be more than sufficient, as required per Section 9.1.1 of the CZA Regulations;
4. The Department has carefully 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 Delaware Storage and Pipeline Company's Application;
5. The Department shall issue a permit to the Applicant, Delaware Storage and Pipeline Company, 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 issuance of the aforementioned CZA permit does not relieve Delaware Storage and Pipeline Company of the legal obligation of compliance with all building permits, subdivision, and other applicable code requirements of the county or municipality wherein the permitted project is located;
8. If there are deviations from the Applicant's proposed plan and operations previously approved by the Secretary, Delaware Storage and Pipeline Company shall notify the Secretary as soon as possible. If the Secretary receives information which he or she believes may alter the scope of the project, the Secretary may revoke the permit or require Delaware Storage and Pipeline Company to submit a new application to reflect the altered nature of the project;
9. The aforementioned CZA permit will allow the Applicant to operate its business while reducing the overall environmental impacts to the Coastal Zone area, in furtherance of the purposes of 7 Del. C. Ch. 70;
10. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and
11. The Department shall serve and publish its Order on all affected persons in a manner with the service and publication of the Secretary's Order.



Shawn M. Garvin
Secretary