

In The Matter Of:

*Department of Natural Resources & Environmental Control
Coastal Zone Act Permit Application*

*Agro-Refiner Hearing
February 5, 2020*

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BEFORE THE DEPARTMENT OF NATURAL
RESOURCES AND ENVIRONMENTAL CONTROL
FOR THE STATE OF DELAWARE

IN THE MATTER OF:)
)
COASTAL ZONE ACT PERMIT)
APPLICATION)
)
AGROREFINER LLC)
HEMP EXTRACTION PROJECT)

391 Lukens Drive
New Castle, Delaware

Wednesday, February 5, 2020
6:00 p.m.

BEFORE: LISA VEST,
HEARING OFFICER

PUBLIC HEARING
TRANSCRIPT OF PROCEEDINGS

WILCOX & FETZER
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1 THE HEARING OFFICER: If
2 everyone could take their seats, we will go
3 ahead and begin. I want to thank everybody
4 for taking time out of their busy schedules
5 to come out tonight. The date is Wednesday,
6 February 5th, 2020, and this is the public
7 hearing to provide a platform to receive
8 public comment on the pending Coastal Zone
9 Permit Application of AgroRefiner, LLC, to
10 operate a hemp processing facility in an
11 existing warehouse at 51 Steel Drive, in New
12 Castle, Delaware.

13 If you have not already done so
14 I would ask that everybody please make sure
15 to sign in on the sheets. I took the ones,
16 if you have already signed in, I have that,
17 but even if you don't want to speak, we do
18 like to have an accurate record of who
19 attends our hearings. And it looks like
20 everyone has already signed in. But just in
21 case I missed one, please be sure to sign in
22 on your way out.

23 With regard to the public
24 comment, if any wishes to be offered tonight,



1 I just have to run through a couple
2 parameters of how we do these things for the
3 record.

4 Consistent with all public
5 hearings held by DNREC, all comments must be
6 limited solely to the subject matter of
7 tonight's proceedings, which, again, is
8 AgroRefiner's Coastal Zone Application
9 currently pending with the Department.

10 If there is anybody that wishes
11 to offer comment, we have a time limit of
12 three minutes per commenter. We try to keep
13 our hearings consistent across-the-board,
14 whether they be regulatory or whether they be
15 permit, and throughout the state. So whether
16 we are in Millsboro or whether we are up
17 here, all of our protocol is kept consistent.

18 Again, if anyone did wish to
19 comment, we would ask that you keep it to
20 three minutes.

21 There is only one record of
22 this formal proceeding tonight. It is the
23 official court reporter's verbatim
24 transcript. She can only hear and accurately



1 transcribe one person at a time, so I would
2 ask that everybody be mindful of that and not
3 speak out of turn or over someone else. And
4 whether listening or speaking, we do ask that
5 everyone be mindful and respectful of all
6 comment that gets offered, even if it differs
7 from your own opinion.

8 I would also ask that all
9 cellphones be now muted or turned off for the
10 duration of the proceedings.

11 It is important to note that no
12 decision has already been made, nor will any
13 decision be made tonight with regard to this
14 pending application. Again, we are here
15 tonight to receive comment for the record if
16 any wishes to be given. And that if that is
17 the case then the comment will be
18 incorporated into the hearing record that's
19 being gathered in this matter.

20 It is important to note that
21 there will be a presentation made by the
22 Department. Following that I believe the
23 applicant also has a few words and a brief
24 presentation to make.



1 Again, once those presentations
2 are done, I will see if anybody here tonight
3 wishes to make comment.

4 That being said, I'm going to
5 turn it over to Erin right now for the
6 Department's presentation.

7 MS. WILSON: Good evening,
8 ladies and gentlemen. I'm Erin Wilson. I'm
9 an environmental scientist at the Division of
10 Climate, Coastal and Energy, with the
11 Delaware Department of Natural Resources and
12 Environmental Control.

13 As Lisa said, the purpose of
14 tonight's hearing is to review the
15 AgroRefiner LLC Hemp Extraction Project
16 Application for a Coastal Zone Act permit.

17 AgroRefiner is requesting a
18 Coastal Zone Permit to operate a hemp
19 extraction facility within an existing
20 warehouse located at 51 Steel Drive, New
21 Castle, Delaware, 19720. The purpose of the
22 operation would be to extract cannabidiol,
23 which is CBD, and cannabinal, which is CBN,
24 from the hemp to distribute to manufacturers



1 of consumer goods.

2 The activity itself is
3 considered to be a new manufacturing facility
4 under 6.1.3 of the regulations governing
5 Delaware's Coastal Zone.

6 AgroRefiner submitted an
7 initial application for a CZA permit in July
8 2019. However, the application was not
9 considered to be complete at that time. The
10 CZA program requested additional information
11 regarding process details, environmental
12 impacts and the offset proposal.

13 AgroRefiner contracted with
14 Brightfields, Inc. and submitted an updated
15 application to include the requested
16 information.

17 The December 10th, 2019
18 application was considered to be
19 administratively complete by the Secretary of
20 DNREC on January 7th, 2020, and was publicly
21 noticed on January 15th, 2020.

22 In reviewing an application for
23 a CZA permit, the Department must consider
24 impacts related to the environment, economy,



1 aesthetics, any supporting facilities,
2 neighboring land uses, and compatibility with
3 county and municipal comprehensive plans.

4 As the proposed activity would
5 occur in an existing warehouse, it has been
6 determined that negative impacts from this
7 activity under normal operating conditions
8 would be limited to air emissions, waste
9 generation and possible odors.

10 The proposed activity would
11 utilize two natural gas-fired hemp dryers
12 during the fall harvest which would produce
13 minimal air emissions.

14 Additionally, daily emissions
15 would come from utilization of pentane during
16 CBC crystallization and toluene during CBN
17 isolation.

18 In total the proposed activity
19 would generate approximately 1.116 tons per
20 year of air emissions.

21 Waste generation would be
22 minimized through reclamation of two of the
23 major solvents utilized in the process,
24 ethanol and pentane. Any waste not



1 reclaimable would be tested to determine
2 whether or not it should be classified as
3 hazardous prior to disposal and would be
4 disposed of accordingly.

5 Odors may be emitted during the
6 drying process in the fall, and to control
7 this impact an in-duct mitigation system is
8 proposed to be installed to neutralize the
9 odor molecules prior to them making it to the
10 outside.

11 The regulations governing
12 Delaware's Coastal Zone require an
13 application for a Coastal Zone Act permit to
14 include an offset proposal for any activity
15 that could result in any negative
16 environmental impacts to the coastal zone.

17 The offset proposal must more
18 than offset the negative environmental
19 impacts associated with the proposed project.

20 As its offset proposal
21 AgroRefiner is proposing the purchase of
22 three tons of emissions reductions credits,
23 or ERCs, from the Delaware Division of Small
24 Business. ERCs are certified through the



1 Division of Air Quality and may be purchased
2 to offset nitrogen oxides and volatile
3 organic compounds, VOCs, because of their
4 roles as precursor to ozone formation and
5 associated negative health impacts.

6 More than 98 percent of the
7 emissions from the proposed activity would be
8 attributed to NOx and VOCs. Therefore, the
9 CZA program considers the purchase of three
10 tons of ERCs to more than offset 1.116 tons
11 of emissions, a suitable proposal.

12 And as was already mentioned,
13 we are here tonight to solicit public comment
14 on the AgroRefiner CZA permit application.
15 No decision on the permit application will be
16 made tonight, and the Secretary of DNREC will
17 make a decision once the record has been
18 closed and reviewed.

19 And I would like to now read in
20 a list of DNREC exhibits.

21 Exhibit 1, application for
22 Coastal Zone Act permit, dated and received
23 December 10th, 2019.

24 Exhibit 2, Secretary's



1 assessment report dated January 7th, 2020.

2 Exhibit 3, affidavit of
3 publication announcing the public hearing and
4 receipt and availability of the CZA permit
5 application from the News Journal, dated
6 January 15th, 2020.

7 Exhibit 4, affidavit of
8 publication announcing the public hearing and
9 receipt and availability of the CZA permit
10 application from Delaware State News, dated
11 January 15th, 2020.

12 Exhibit 5, copy of the public
13 notice announcing the public hearing and
14 receipt and availability of the CZA permit
15 application as e-mailed to the list of
16 interested parties for coastal zone issues,
17 dated January 15, 2020.

18 Exhibit 6, notice of public
19 hearing as it appeared on the DNREC website
20 on January 15, 2020.

21 Exhibit 7, notice of public
22 hearing as it appeared on the Delaware Public
23 Meeting Calendar on January 15, 2020.

24 And Exhibit 8, the PowerPoint



1 presentation given by myself, Erin Wilson, at
2 the hearing on February 5th, 2020.

3 THE HEARING OFFICER: Okay.

4 MS. WILSON: That concludes the
5 DNREC list of exhibits.

6 THE HEARING OFFICER: Okay.

7 Thank you, Erin.

8 Let the record reflect that
9 DNREC Exhibits 1 through 8 as identified by
10 Department staff right now are hereby entered
11 into the formal hearing record.

12 Does the Department have
13 anything further they wish to put on the
14 record at this time?

15 MS. WILSON: No.

16 THE HEARING OFFICER: Okay.

17 Thank you. At this point, like I said
18 previously, I believe representatives for the
19 applicant have some words to say on the
20 record and possibly a brief presentation.

21 MR. MATZ: Hi. Good evening.

22 My name is Howard Matz, and I'm from
23 AgroRefiner. We are delighted to be here in
24 Delaware to bring to you guys an innovative



1 technology.

2 This business, this industry is
3 evolving and a new industry in America
4 because of the change in the agriculture bill
5 which allowed for hemp to be processed and
6 grown in the United States, and then
7 ultimately distributed in finished products.

8 A VOICE: It is a PDF, not a
9 PowerPoint.

10 A VOICE: We are doing the page
11 down. Might have to scroll.

12 MR. MATZ: You saw the map
13 before. But we leased an existing building
14 in this industrial park, 46,000 square feet,
15 which is about half of the building. It is
16 an existing stand-alone warehouse. So we are
17 not in any way building any new physical
18 structure outside of this building.

19 In fact, our whole installation
20 is inside this building, and the processing
21 portion of it is only under 5,000 square
22 feet. The rest is storage.

23 We are installing an extraction
24 facility, which means that we are taking



1 biomass, which is grown agricultural product,
2 and we are through a process being able to
3 extract from it the CBD and be able to purify
4 it, and then be able to sell it on a
5 wholesale basis.

6 So this is not a situation
7 where, you know, people are coming, are
8 driving up to the building to be able to buy
9 any product. And the product will be sold
10 nationally and internationally.

11 This facility by standards of
12 other projects around the country is quite
13 modest. Our desire was to do it right, and
14 do it in a kind of very step-by-step,
15 meaningful fashion, so that we could totally
16 understand the industry, the supply and
17 demand of the industry, and we spent a lot of
18 time working through different manufacturers
19 to be able to find equipment that we like for
20 each step of the process

21 And so our process is novel.
22 Our process is an assembly of pieces of
23 equipment that others haven't put together
24 before. And our process has resulted in



1 manufacture of one piece of equipment,
2 actually fixing their piece of equipment
3 because it wouldn't otherwise have been
4 compliant with codes around the country.

5 And by the way, our team has
6 Mark Scialdone, is a chemist, and Mark was a
7 chemist at DuPont for many years, and he is
8 quite familiar with all of the issues and has
9 helped us to formulate our business plan,
10 shop for our equipment, the installation and
11 staffing plans, etcetera.

12 And Brad here is our operations
13 manager. And he is here full-time. And we
14 will have about 11 employees beyond this team
15 here.

16 So what we are making is
17 cannabinal and it is not marijuana. It has
18 by law less than .3 percent THC content. You
19 probably heard a lot about it because there
20 is a lot of news about CBD being able, from a
21 perspective of ingested or topical, being
22 quite a useful tool in pain management,
23 psychotic management.

24 But it is just a benign



1 product, an agricultural product. You might
2 think of it like a homeopathic product. And
3 again, it is non-psychoactive.

4 And so we use ethanol to
5 extract the hemp, but what is unique about
6 the system that we designed is it is closed
7 loop. So the equipment originally was
8 designed to be much more manual in its
9 nature. We created a stainless steel loop
10 that moves the ethanol through the process
11 and then recycles it back into the process on
12 the front end again.

13 We can process about 78,000
14 pounds of dried hemp. We have about half of
15 that amount in storage on site. And our
16 capacity is about 3500 kilograms of CBD
17 distillate. And if we choose we could
18 translate that into CBD isolate or into CBN.

19 And right now we have one plant
20 manager, we will have three shift leaders,
21 and as many as eight semi-skilled operators,
22 on a full-time salary.

23 The operation is designed to
24 have no environmental impact on the



1 surrounding community. We will be capturing
2 all of the biomass residual that is post
3 extraction and disposing of it properly and
4 it is not hazardous.

5 We, as Erin said, will be using
6 the in-duct system, using ultraviolet light
7 to reduce any odor that might come from the
8 drying process. You should know that right
9 now about half of the 75,000 tons comes to us
10 dried. So as much of the material comes
11 dried to us we prefer rather than having to
12 dry it ourselves.

13 As Erin said, we are buying
14 three tons of offsets. And it is
15 considerably more than the amount of
16 projected emissions on an annual basis.

17 So that concludes our
18 presentation. We want to leave you with the
19 idea that we are excited to be in Delaware.
20 It is an innovative technology. It is an
21 innovative business. It is a new industry in
22 America. And I think that and we hope that
23 it has the prospects to be a very growing and
24 profitable business so that we can



1 prospectively expand our presence here in the
2 state. So, thanks.

3 THE HEARING OFFICER: Thank
4 you, sir. Just for the record, did you have
5 anything that you wished to enter in as an
6 exhibit?

7 MR. MATZ: No.

8 THE HEARING OFFICER: Not that
9 you have to. I just wanted to give you the
10 opportunity.

11 MR. MATZ: No, thank you.

12 THE HEARING OFFICER: At this
13 time I'm going to go ahead and open the
14 floor, once again, as stated previously, to
15 anybody that would like to offer comment for
16 the record. I do know there were a few
17 people that came in after I opened the
18 hearing. Everybody that signed in previously
19 said that they did not wish to offer any
20 comment. So to those that came in a couple
21 minutes later, is there anyone that wishes to
22 offer comment? Okay. Could you state your
23 full name for the record.

24 MR. DUNN: Sure. Bill Dunn.



1 I'm vice president of a county-wide civic
2 group called Civic League for New Castle
3 County, and I also retired from DuPont.

4 So I haven't looked at this
5 material in a couple of weeks. And what I
6 focused on was the process aspects of what
7 you guys are putting together. And it seems
8 pretty simple and straightforward, and in the
9 broad strokes seemed to be pretty acceptable.

10 But I got a little bit
11 concerned. The ethanol I get, as your first
12 way of leaching out what you need in the
13 cannabinal out of it.

14 But then the utilization of
15 pentane in the process and, more importantly,
16 toluene, and the anhydrous or the potassium
17 disulfate and anhydrous sodium sulfate, I'm
18 kind of concerned, especially in the case of
19 the pentane and the toluene, the recovery of
20 that material.

21 Clearly, you got to meet RECRA
22 standards. But to maximize your ability to
23 capture and not vent out to the atmosphere is
24 something I think is pretty important.



1 And what I didn't get an
2 opportunity to get to, and they might be able
3 to touch on, is in this approval process they
4 are also looking for exhaust vent systems.
5 What is that aspect of the request? And what
6 amount is DNREC or what are you requesting
7 DNREC approve as far as venting of the
8 atmosphere? It would be great if they could
9 address it this evening. That's it. Thank
10 you.

11 THE HEARING OFFICER: Thank
12 you, Mr. Dunn. Sir.

13 MR. WILLIS: My name is Barton
14 Willis. I live in New Castle, Delaware.

15 First of all, I attend almost
16 every Coastal Zone Act hearing, and I just
17 wanted to thank you for going through the
18 process. A lot of people think that going
19 through the Coastal Zone Act process is a
20 deterrent for manufacturing here in the State
21 of Delaware. I have tried to get companies
22 as large as Sunoco, to companies as small as
23 you, to just apply. The State of Delaware
24 will work with you to come and manufacture



1 and bring jobs to Delaware.

2 I just want to say thank you
3 for showing that the process, that hurdle is
4 not that high of a leap. It means a lot to
5 me that we had the civic engagement, that we
6 had the chance to go over the permits and
7 look at the permits.

8 I regret I didn't have nothing
9 written down, but I just want to say thank
10 you for at least applying for the permit and
11 going and taking that step. We need more
12 manufacturers like yours to come and prosper
13 in the State of Delaware, inside this Coastal
14 Zone. Thank you.

15 THE HEARING OFFICER: Thank
16 you, Mr. Willis. Anyone else while the floor
17 is open? Okay.

18 For the questions posed by Mr.
19 Dunn, the Department will go back to the
20 applicant and see if we can't get that fully
21 addressed and develop the record further on
22 that.

23 Seeing as how there is nobody
24 else here that wishes to offer comment at



1 this time, I'm going to go ahead and close
2 the record with regard to future comment,
3 but, again, we will continue to develop and
4 clarify those things that Mr. Dunn brought to
5 light.

6 Briefly, what will happen now
7 is we will get the record further clarified
8 on that. The Department will then provide
9 the Secretary with a summary of the hearing
10 record. He will review the comment and the
11 concerns of Mr. Dunn, and the comments from
12 Mr. Willis as well, and he will take all of
13 that into consideration prior to making his
14 determination in this matter.

15 Anything further that the
16 Department has at this time?

17 MS. WILSON: No.

18 THE HEARING OFFICER: Anything
19 further that the applicant has?

20 MR. MATZ: No.

21 THE HEARING OFFICER: That
22 being said, I want to thank everybody for
23 attending. This hearing is adjourned.

24 (Proceedings conclude at 6:23 p.m.)



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I N D E X

DNREC DEPOSITION EXHIBITS

Exhibit 1 - CZA application,

12/10/19

Exhibit 2 - Secretary's Assessment

Report, 1/7/20

Exhibit 3 - Affidavit of Publication,

1/15/20, News Journal

Exhibit 4 - Affidavit of Publication,

1/15/20, Delaware State News

Exhibit 5 - Public notice and list of

interested parties to whom e-mailed, 1/15/20

Exhibit 6 - Notice of public hearing, DNREC

website, 1/15/20

Exhibit 7 - Notice of public hearing,

Delaware Public Meeting Calendar, 1/15/20

Exhibit 8 - PowerPoint presentation, Erin

Wilson, Environmental Scientist

(Exhibits retained by Hearing Officer Vest.)

Certificate of Reporter

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1 State of Delaware)
2 New Castle County)

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CERTIFICATE OF REPORTER

6

7 I, Eleanor J. Schwandt, Registered
8 Merit Reporter and Notary Public, do hereby
9 certify that the foregoing record, pages 1 to
10 22 inclusive, is a true and accurate
11 transcript of my stenographic notes taken on
12 February 5, 2020, in the above-captioned
13 matter.

14

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22

Eleanor J. Schwandt

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