



**BILL RICHARDSON**  
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Lieutenant Governor

**New Mexico**  
**ENVIRONMENT DEPARTMENT**

**Air Quality Bureau**  
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**RON CURRY**  
Secretary

**SARAH COTTRELL**  
Deputy Secretary

March 31, 2010

**CERTIFIED MAIL NO. 7008 0500 0001 1247 6775**  
**RETURN RECEIPT REQUESTED**

Ed Brister  
Director  
Helena Chemical Company  
225 Schilling Boulevardd, Suite 300  
Collierville, Tennessee N 38017

Re: Denial of Permit Application No. 3035-M1-R2 (IDEA ID No. 13096 – PRN20080002) - Helena Chemical Company - Mesquite Facility

Dear Mr. Brister:

This letter is in response to Helena Chemical Company's ("Helena") air quality permit application ("Application") requesting cancellation of Air Quality Permit/Notice of Intent ("NOI") No. 3035-M1 ("Permit") and issuance of NOI No. 3035-M1-R2 for the Helena fertilizer processing facility located in Mesquite, New Mexico. The Application is dated September 24, 2008, and the New Mexico Environment Department ("Department") received the Application on October 3, 2008. The Department issued the Permit/NOI 3035-M1 on November 4, 2005.

In order for the Department to cancel the current Permit/NOI and issue a new NOI, Helena must demonstrate that the Mesquite facility is no longer required to obtain an air quality permit under 20.2.72 NMAC. In its Application, Helena claims to demonstrate that the potential emission rate ("PER") for the Mesquite facility is less than 10 pounds per hour or 25 tons per year of pollutants, and therefore not subject to 20.2.72 NMAC.

Based upon the Department's review, Helena has not made the required demonstration. Specifically, the Department has identified the following bases for denial of Helena's Application:

1. Helena, in its Application, estimated the fertilizer handling PER based on uncontrolled emission rates from AP-42 Section 13.2.4 Aggregate Handling and Storage Piles. AP-42 13.2.4 is not intended to be used to estimate emissions from fertilizer handling and

storage piles. Using AP-42 Section 13.2.4 as a basis for calculating Helena's particulate matter emission rate does not have sufficient technical justification. Any emission rate used in the Application must be supported with engineering, technical or other scientific data.

2. Helena uses a 90% particulate matter emissions "mitigation factor" for those sources located within the building where processing operations occur. There is no technical basis in the Application for use of the 90% emission factor. Any emission factor used in the Application must be supported with engineering, technical or other scientific data.
3. Helena estimated haul road emissions based on AP-42 Section 13.2.1 Paved Roads and a measured silt loading. This is not an appropriate emission factor to calculate the PER because, based on the Department's observations, Helena's process has the potential to drop product onto the road invalidating the assumption that the road surface is paved. AP-42 Section 13.2.1 may only be used if there is a corresponding condition to sweep the roads. In order to credit a facility for emission reductions due to sweeping of roads, a federally-enforceable permit must be issued for the facility. Helena has applied for an NOI, and NOIs cannot contain conditions. Helena must calculate the PER based upon the facility's maximum capacity to emit as defined in 20.2.73.7.O NMAC.
4. Equation 1 from AP-42 13.2.1 is used to estimate emissions from haul roads, and has some limitations that may preclude its accuracy for Helena's operation. Helena assumes in its Application that the truck traffic on Helena's site moves at constant speed, and does not stop and go, resulting in variable speeds. The Application contains no justification for the use of Equation AP-42 13.2.1 for road emissions.<sup>1</sup>
5. The facility's annual PER in tons per year was based upon 2007 sales data which Helena represents as data from its highest sales year. However, Helena did not provide documentation showing that the 2007 sales data is in fact the highest sales year over the long term. This value directly affects the facility's process rate, the number of trucks entering, and the ratio of material delivered by truck or rail.

In accordance with 20.2.72.207.D NMAC, the applicant has the burden of demonstrating that a permitting action should be approved, and Helena has failed to demonstrate that the Permit/NOI should be canceled because the facility's PER is less than 10 pounds per hour or 25 tons per

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<sup>1</sup> AP-42 13.2.1 states:

Equation 1 is based on a regression analysis of numerous emission tests, including 65 tests for PM-10. Sources tested include public paved roads, as well as controlled and uncontrolled industrial paved roads. All sources tested were of freely flowing vehicles traveling at constant speed on relatively level roads. No tests of "stop-and-go" traffic or vehicles under load were available for inclusion in the data base.

year. Therefore, in accordance with 20.2.72.207.D and -208.A NMAC, Helena's Application for the requested permitting actions, cancellation of the existing Permit/NOI and issuance of a new NOI, is denied.

APPEAL PROCEDURES

Procedures for appeal of this permitting action are set forth in 20.1.2 NMAC and 20.2.72.207 NMAC. Those procedures provide that any person who participated in a permitting action before the Department and who is adversely affected by such permitting action, may file a petition for hearing before the Environmental Improvement Board. The petition shall be made in writing to the Environmental Improvement Board within thirty (30) days from the date notice is given of the Department's permitting action and shall specify the portions of the permitting action to which the petitioner objects, certify that a copy of the petition has been mailed or hand-delivered and attach a copy of the permitting action for which review is sought. Unless a timely request for hearing is made, the decision of the Department shall be final. The petition shall be copied simultaneously to the Department upon receipt of the appeal notice. A petition for a hearing shall be filed with:

Environmental Improvement Board Administrator  
New Mexico Environmental Improvement Board  
1190 St. Francis Drive, Runnels Building, Room N-2153  
P.O. Box 5469  
Santa Fe, New Mexico 87502

Sincerely,



Sam Speaker  
Permit Specialist  
Minor Source Unit  
Air Quality Bureau

cc: Brian Derry, EnSafe Inc., 6512 Dogwood View Parkway, Suite B, Jackson, Mississippi 39213

