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**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

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ENVIR. APPEALS BOARD

In the matter of)
)
BANGO OIL, LLC.) PSD Appeal No. 08-10

Reply to the Request for Summary Disposition

Appellant Sherry Wideman, opposes the request filed by the Nevada Division of Environmental Protection ("NDEP") for a summarily disposition. For the reasons set forth in this memorandum, I request that NDEP's Motion to Dismiss be denied, and this matter set for hearing on the merits.

OPPOSITION TO NDEP'S MOTION TO DISMISS -1

1) NDEP has not issued a final permit

In my petition, I state in the first paragraph that: "This letter shall serve as a request for your help please in *the withdrawal of the Class II Air Quality Operating Permit A02992-1473 from Bango Oil, LLC, and/or* a hearing pursuant to NRS 445B Air Pollution and NAC 445B Air controls in regards to the application for a revision to Class II Air Quality Operating Permit A02992-1473 from Bango Oil, LLC"

Which I believe, is addressing Bango Oil's current permit which has been issued, and/or the application for a revision.

Also, in the closing paragraph, I state "In summary, there appears to be no legal justification for NDEP-BAPC present plan for a revision to Class II Air Quality Operating Permit A02992-1473 for Bango Oil, LLC. I trust, therefore, that the application will be denied until *the legality concerning the current complaints against Bango Oil, LLC be fully addressed according to the NRS 445B Air Pollution and NAC 445B NRS for the existing permit.*" This statement further references to the legality of the existing permit.

Therefore, my petition is addressing the current final permit which has been issued, and the also the revision which is not applicable because it is not final.

OPPOSITION TO NDEP'S MOTION TO DISMISS -2 & 3

2) The permit proceeding is for a minor source permit under the State's Class II permit program, not a PSD permit.

3) All of the issues raised in the Petition for Review are outside the jurisdiction of the Board.

The existing permit classifies Bango Oil with a Standard Industrial Classification number of 2992. This category includes establishments primarily engaged in blending, compounding, and re-refining lubricating oils and greases from *purchased mineral, animal, and vegetable materials*.

Bango Oil recycles used motor oil, petroleum refineries engaged in the production of lubricating oils and greases are classified as SIC 2911. Therefore, there are more stringent regulations applicable to such a process. This SIC reclassification might require Bango Oil to be reclassified as a major stationary source and thus, subject to a PSD permit. The following areas may contribute to Bango Oil's reclassified:

"The fugitive emissions of a stationary source have not been tested as required for petroleum refineries. (Per Title 40, 51.166) The Clean Air Act requires refineries to develop and implement a Leak Detection and Repair (LDAR) program to control fugitive emissions.

Fugitive emissions occur from valves, pumps, compressors, pressure relief valves, flanges, connectors and other piping components. EPA believes this great disparity between what refineries are reporting and what EPA is finding may be attributable to refineries not monitoring in the manner prescribed in 40 CFR Part 60, Appendix A, Method 21.

Federal regulations require refiners to routinely monitor for leaks and to fix any equipment found leaking. Failure to identify leaking equipment results in necessary repairs not being made and continuing fugitive emissions of volatile organic chemicals (VOCs) and other hazardous chemicals.

EPA estimates that the failure to identify and repair leaks at petroleum refineries could be resulting in additional VOC emissions of 80 million pounds annually. VOCs contribute to ground-level ozone, a principal component of smog, which can cause significant health and environmental problems. By not fully identifying all leaking components, refineries are likely causing the unnecessary release of excess hydrocarbons. The impacts of these additional hydrocarbon releases may result in:

Additional VOC emissions that could worsen local or transboundary smog problems; Under reporting of fugitive emissions on the annual Toxic Reporting Inventory; Under reporting of various TRI chemicals on annual Form R submissions; and Delayed or denied permits for expansion."

Bango Oil, at certain times, releases additional emissions that would be considered fugitive emissions from their System 2 re-generative clay filtration system. The odors are sickening and travel for miles. Most likely these fugitive emissions have not been accounted for by in NDEP's emissions calculation.

The ambient air quality standards (NAAQS) for fine particles and precursor emissions should also be applied in reviewing Bango Oils total emissions calculations.

It is my understanding that an environmental impact study was not performed and perhaps there is not any baseline air quality data to test for whether or not Bango Oil has surpassed the maximum allowable increase in air polluten.

The surround area is zone rural and agricultural. It is a valley that commonly has an inversion layer of fog and the Carson River flows within two miles of Bango Oil. These factors may result in acid deposition, when combined with Bango Oil's emissions. I do not believe NDEP has addressed this issue.

All sources subject to PSD review must perform an ambient air quality impact analysis to show that the emissions from the source will not cause or contribute to a PSD increment or NAAQS violation. *See* section 165(a)(3) of the CAA; 40 CFR 51.166(k) and 52.21(k). Sources are required to perform this analysis for the PM2.5 NAAQS and, when finalized, PM2.5 increments. Such analyses must consider how a source, in combination with other sources in the area, will impact air quality at existing PM2.5 monitor locations, as well as at other locations that are appropriate for comparing predicted PM2.5 concentrations to the NAAQS based on PM2.5 monitor siting requirements and recommendations

Based on State obligations, it appears that NDEP has not complied with the Prevention of Significant Deterioration ("PSD") program at 40 C.F.R. 52.21, nor have they met the Federal State Implementation Plan (SIP) requirements under the Clean Air Act ("CAA") when addressing Bango Oil's original permit AO2993-1473. Both of which are enforceable by Federal regulations and under the Boards jurisdiction.

CONCLUSION

In summary, I respectfully request that the Board review Bango Oil's current permit Number AO2992-1473 to ensure that NDEP issued this permit in accordance with Federal regulations, and that the Board Commission determine that a summary disposition is not appropriate.

Dated this 20th day of November, 2008.

Submitted by:



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