

Attachment E



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

September 29, 2022

Emily C. Schilling
Partner
Holland & Hart
222 South Main Street, Suite 2200
Salt Lake City, UT 84101-2194

Re: Harvest Four Corners, LLC (Harvest) Correspondence dated September 13, 2022, Part 71 Permit Renewal Status for the Los Mestenos Compressor Station; Permit Number R6FOP-NM-04-R2.

Dear Ms. Schilling:

EPA is responding to your September 13, 2022, letter regarding the title V permit renewal status of the Harvest Los Mestenos Compressor Station (Facility). We understand your concerns raised and perspective as discussed in our meeting with you on September 13, 2022, and further articulated in your subsequent letter regarding EPA's letter sent to Harvest on September 8, 2022. EPA wishes to emphasize our intention is to work with Harvest collaboratively to resolve the permitting status of this Facility.

The position EPA communicated in our letter of September 8, 2022, remains the same, that Harvest failed to submit a *timely and complete* renewal application consistent with 40 CFR §§ 71.7(b)¹ and 71.7(c)(1)(ii)². Since the expiration of the Facility's Part 71 Permit No. R6FOP-NM-04-R2 was on August 8, 2022, if Harvest wishes to proceed with obtaining a Part 71 permit, we emphasize again that a new initial permit application will need to be submitted for the Facility as explained in our September 8th letter. EPA will work with Harvest to expedite the processing of this new initial Part 71 permit application for the Facility as soon as it is received. The information previously submitted by Harvest (including all changes made to the original renewal application) can be concisely resubmitted as part of a new initial permit application for EPA to develop a title V permit for public comment. Please refer to our letter for directions on resubmitting information, such as consideration of the Enclosure provided in our September 8th letter. This Enclosure portfolio included the written responses received from Harvest,

¹ "...no part 71 source may operate after the time that it is required to submit a timely and complete application under this part, except in compliance with a permit issued under this part. If a part 71 source submits a timely and complete application for permit issuance (including for renewal), the source's failure to have a part 71 permit is not a violation of this part until the permitting authority takes final action on the permit application, except as noted in this section. This protection shall cease to apply if, subsequent to the completeness determination made pursuant to [paragraph \(a\)\(4\)](#) of this section, and as required by [§ 71.5\(c\)](#), the applicant fails to submit by the deadline specified in writing by the permitting authority any additional information identified as being needed to process the application.

² Permit expiration terminates the source's right to operate unless a timely and complete renewal application has been submitted consistent with [paragraph \(b\)](#) of this section and [§ 71.5\(a\)\(1\)\(iii\)](#).

as well as remaining questions posed but unanswered at the time of our letter (pictures for the facility's equipment and process flow diagram were not included in the portfolio to save space).

On January 21, 2022, EPA received Harvest's request for a Change of Status from a Part 71 major source to a Tribal Minor NSR source and a corresponding registration application for an existing Tribal Minor NSR source. On January 28, 2022, EPA notified Harvest that as an existing Part 71 source, Harvest is required to submit a renewal application at least six months prior to permit expiration (i.e., prior to February 8, 2022). As an existing Part 71 source, Harvest was subject to 40 CFR § 71.5(a) until EPA determined that the Facility is no longer a Part 71 source. Submitting a request for Change of Status from a Part 71 source in and of itself does not negate the source of its obligation.

On April 5, 2022, EPA determined Harvest's Part 71 renewal application to be incomplete since it lacked the basic fundamental emissions information used to calculate the potential to emit (PTE) of the Facility (same key information needed to also assess a change in the type of source/permit). This basic information was needed to process the renewal application and determine the application complete pursuant of 40 CFR § 71.5(c)(3).³ The supporting information that EPA requested was information necessary to substantiate the emissions assertions made in only general terms within the application, and should have been already available since Harvest would have needed to analyze such emissions in detail prior to submitting the renewal application, specifically:

- A detailed process description identifying all components of the Facility, including the pigging activities
- A complete process flow diagram that follows the above description with labeled inputs and outputs
- Operating pressure of the equipment and the pipeline
- Historical condensate analysis indicating and supporting the assertions of composition changes
- Explanation of how tank emissions are calculated and derived, i.e., emission calculation methodology, emission factors, assumptions, changes from past modeling methods and rationale for the specific use of different modeling protocols being used, etc.
- Confirmation of a complete and current equipment leak component count
- Methodology used for estimating worst case emissions from pigging activities (i.e., specific calculational method with example equations specific to the Facility)

The basic questions asked by EPA about this Facility were to ascertain the assumptions and assertions made by Harvest in generalized terms in the renewal application, such as the following:

³ The following emissions-related information:

(i) All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. A permit application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except where such units are exempted under this [paragraph \(c\)](#). The permitting authority shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the fee schedule established pursuant to [§ 71.9\(b\)](#).

(ii) Identification and description of all points of emissions described in [paragraph \(c\)\(3\)\(i\)](#) of this section in sufficient detail to establish the basis for fees and applicability of requirements of the Act.

(iii) Emissions rates in tpy and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method. For emissions units subject to an annual emissions cap, tpy can be reported as part of the aggregate emissions associated with the cap, except where more specific information is needed, including where necessary to determine and/or assure compliance with an applicable requirement.

- 1) How can PTE calculations and the decreases in emissions asserted be evaluated without understanding the Facility's current process operations and overall material balance resulting from changed throughput? It is pertinent to have an accurate process flow diagram and description accounting for the Facility's process unit operations, specific emission units and throughput capacity overall, inclusive of accurate equipment component count.
- 2) How can condensate composition changes be evaluated if there is no comparison data? How can condensate composition changes be evaluated, and conclusive determinations of emission decreases with only results from one annual analysis over a five-year permit term (last supplemental information package included three other years, but with 2020 year missing)
- 3) The original application *did not* include a copy of a condensate analysis; it only included a fuel gas analysis which is not how Harvest represented how the tank emissions were calculated.
- 4) The process flow diagram in the original application included out-of-service equipment. The process flow diagram in the original application indicated pigging equipment, however there were no pigging emissions accounted for in the PTE for the Facility.
- 5) The emission calculation methodology, emission factors, models, and emission guidance used for emission calculations should be clear and representative of current Facility equipment and operations.

We hope the above examples further assist you in understanding EPA's incompleteness determination as indicated in our letter of April 5, 2022. If you have any specific questions about pursuing a new Part 71 permit or submitting a Part 71 permit application for this Facility, please contact the permit engineer for the project Erica Le Doux of my staff, at ledoux.ERICA@epa.gov.

Sincerely,

**CYNTHIA
KALERI**

Digitally signed by CYNTHIA KALERI
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ou=Environmental Protection
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Cynthia J. Kaleri

Section Supervisor, Air Permits Section