

Illinois Environmental Protection Agency  
Bureau of Air  
December 2007

Responsiveness Summary for  
Public Comments and Questions on  
Northwest Illinois Construction Company's  
Request for a Construction Permit to  
Expand Production at its Facility in  
Rock Falls, Illinois

Identification No.: 195045ABE  
Application No.: 06070002

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## **DECISION**

On December 10, 2007, the Illinois Environmental Protection Agency (Illinois EPA) Bureau of Air issued a construction permit to Northwest Illinois Construction Company to expand production of asphalt at its asphalt plant located at 1812 McNeil Road in Rock Falls. The Bureau of Air has also issued this summary to address questions relevant to the issuance of the air permit and other questions and comments raised during the comment period.

Copies of the permit can be obtained from the contact listed at the end of this document. The permit and additional copies of this document can also be obtained from the Illinois EPA website [www.epa.state.il.us/public-notices/](http://www.epa.state.il.us/public-notices/).

## **BACKGROUND**

Northwest Illinois Construction Company submitted an application to the Illinois EPA in August, 1998, to construct and operate an asphalt plant in Rock Falls. The Illinois EPA issued a Joint Construction and Lifetime Operating Permit for the asphalt plant to the company in September, 1998. After an inspection in October 2005, the Illinois EPA determined that the facility was operating out of compliance with its permit, including having installed equipment not in the original application and having a production rate higher than justified by testing performed. The Illinois EPA reopened the permit for the facility and then on March 20, 2006, issued the company an operating permit which would expire on August 8, 2006. This temporary permit was issued to give the company time to test the newly installed crusher after which the company was to submit an application for a Federally Enforceable State Operating permit. The temporary permit also included a lower production limit which reflected the production rate that the company used when testing the facility.

In addition to its operating permit application, in July 2006, Northwest submitted an application to increase throughput of the facility to the levels requested in the original 1998 application, i.e. 325 tons per hour. The Illinois EPA hearing on January 30, 2007, was to accept comments on the application to raise production limits.

## **COMMENT PERIOD AND PUBLIC HEARING**

The Illinois EPA Bureau of Air evaluates applications and issues permits for sources of emissions to the atmosphere. An air permit application must appropriately address compliance with applicable air pollution control laws and regulations before a permit can be issued. Following its initial technical review of Northwest Illinois Construction Company's application, the Illinois EPA Bureau of Air made a preliminary determination that the application met the standards for issuance of a construction permit and prepared a draft permit for public review and comment.

The Illinois EPA held a public hearing on the proposed increase. The public comment period opened with the publication of a hearing notice in the Sterling/Rock Falls Daily Gazette on December 16, 2006. The hearing notice was published again in the Sterling/Rock Falls Daily

Gazette on Sterling/Rock Falls Daily Gazette on December 23 and 30, 2006. The public hearing was held on January 30, 2007 at the Rock Falls Community Building in Rock Falls. The purpose of this public hearing was to accept oral comments into the written hearing record and answer questions about the proposed project. The written comment period remained open until March 1, 2007.

### **AVAILABILITY OF DOCUMENTS**

The construction permit issued to Northwest Illinois Construction Company and this responsiveness summary are available on the Illinois Permit Database at [www.epa.gov/region5/air/permits/ilonline.htm](http://www.epa.gov/region5/air/permits/ilonline.htm) (please look for the documents under All Permit Records (sorted by name), State Construction Permits). Copies of these documents may also be obtained by contacting the Illinois EPA at the telephone numbers listed at the end of this document.

### **COMMENTS & QUESTIONS WITH RESPONSES BY THE ILLINOIS EPA**

1. There are odors and dust from the facility. We cannot go outside because of the emissions from the facility. Who should we submit complaints to?

**Complaints about odors or particulate emissions should be made to the Illinois Environmental Protection Agency at <http://www.epa.state.il.us/pollution-complaint/> or by contacting the Illinois EPA regional office for your area at:**

**630 Fifth Avenue, Room 418  
Moline, IL 61264  
309/797-3341**

**If complaints can be substantiated by the field inspector a violation notice will be issued to the company.**

2. Does the Illinois EPA only inspect the facility when there is a complaint?

**No, Illinois EPA's field office inspects facilities based on its work plan. A small source of emissions such as this facility, however, may not be scheduled for an inspection but once every couple of years, unless there are known concerns about the facility. Complaints are one way that the Illinois EPA uses to determine the frequency of inspections.**

3. Does the Illinois EPA send an inspector out when there is a complaint?

**Generally, the Illinois EPA field inspector will visit a site if a complaint is received.**

4. Are there asphalt plants in residential areas in other parts of the state?

**Yes. It is uneconomical to ship asphalt long distances for road building so asphalt plants are ubiquitous around the state, in all areas rural and urban. There are approximately 450 permitted asphalt plants in the state.**

5. The emissions from the facility are not good for our health. Will emissions from the facility affect the air quality that our children are breathing, particularly since there is a school nearby?

**National Ambient Air Quality Standards are established by the USEPA to set a level of air quality that is protective of sensitive populations such as children or the elderly. The air quality in Rock Falls and the Northwestern portion of the State has good air quality as determined by the ambient air quality at monitors in Rock Island, LaSalle and Rockford. Small sources of air emissions such as from an asphalt plant will not have a measurable impact on ambient air quality.**

6. A representative at the Illinois Department of Public Health told Gene Johnson at the Whiteside County Health department that all petroleum based fumes cause cancer.

**The Illinois EPA does not conduct public health studies but instead defers to the USEPA and Illinois Department of Public Health. The Illinois Department of Public Health has indicated to the Illinois EPA and published literature about asphalt plants which states that if emissions from an asphalt plant are within the established environmental standards, that the emissions should not pose a public health threat to surrounding residents. The Department of Public Health fact sheet may be found online at:**

**<http://www.idph.state.il.us/envhealth/factsheets/asphalt.htm>**

7. There is black smoke that comes out of the stacks. What level of opacity is the facility allowed to emit?

**The facility is allowed 20% opacity. This should not look like a black smoke, however only persons that have attended and passed the Illinois EPA's Smoke School are certified to determine the level of opacity being emitted from a stack. If you believe that the facility appears to have excess opacity a complaint should be submitted to the Illinois EPA at the contacts listed above so that a regional field inspector, who is a certified smoke reader, can investigate.**

8. The Illinois EPA issued the facility a temporary permit. How long does a temporary permit last? What is the history of permitting of this source?

**Northwest Illinois Construction Co. was originally issued a Joint Construction and Lifetime Operating Permit for its Rock Falls site on September 10, 1998. Lifetime Operating Permits have no expiration date and are the type of permit typically issued to small sources of air pollution such as this facility. After an inspection in October 2005, the Illinois EPA determined that the facility was operating out of compliance with its permit, including having installed equipment not in the original application. The Illinois EPA reopened the permit for the facility and then on March 20, 2006, issued the company an operating permit which would expire on August 8, 2006. This temporary permit was issued to give the company time to test the newly installed crusher after which the company was to submit an application for a Federally Enforceable State Operating permit. The company is required to obtain a federally enforceable permit because it has been determined that the facility is subject to federal New Source Performance Standards. FESOP permits must be renewed every five years. The company submitted the FESOP application in July 2006, but had not yet tested the crusher. The Illinois EPA will not be processing Northwestern Illinois Construction Company's application for a new operating permit, the FESOP, until after the testing on the crusher is completed. Since the temporary permit expired in August 2006, the company is out of compliance and subject to enforcement for any operation of the asphalt plant after that date.**

**At the same time that Northwest Illinois Construction Company submitted its application for a FESOP in 2006, the company also submitted an application for an increase in asphalt throughput. After the initial Lifetime Operating Permit was issued in 1998, the company was required to test the facility's emissions at normal production levels. During the testing however the company tested at lower production levels than were listed in the operating permit, so the production limit in the permit was the lower limit that the company had tested at. The construction permit application that the company has submitted would increase those production limits to the higher level from the original application. The Illinois EPA hearing on January 30, 2007, was to accept comments on the application to raise production limits. The company is required to perform testing to show that its emissions at the higher production levels will be able to comply with the limits established in the construction permit.**

9. Are there staff at the facility 24-hours a day, year round?

**The company has indicated that there are personnel at the facility only when it is operating.**

10. The facility is not properly secured so that children cannot trespass on the site.

**Illinois EPA does not regulate trespass on private property. Local police should be called to respond to trespassers.**

11. The facility was supposed to be temporary. Six or seven years is a long time for a temporary facility. Has the facility operated on a temporary permit for the whole time?

**The facility was not issued a temporary permit because there was an anticipation that the company would only be at this site for a short duration; instead, the temporary permit was issued because there were compliance issues with the facility. The temporary permit was issued with a near expiration date to give the company time just to test the asphalt plant and submit a new application to the Illinois EPA. In fact the original permit issued for the facility in 1998 was a Lifetime Operating Permit which had no expiration date.**

**Expiration dates for Illinois EPA permits are not based on the anticipated duration that a business will stay in one location. They are instead generally based on the amount of emissions from a business. Very small sources of air emissions are issued Lifetime Operating Permits which do not have to be renewed. Larger sources of air emissions are issued either Federally Enforceable State Operating Permits (FESOP) or Clean Air Act Permit Program (CAAPP) permits each of which must be renewed every five years.**

12. Do you issue Lifetime Operating Permits or Federally Enforceable State Operating Permits, which are renewable every 5 years, to a mobile plant that will move from one area to another?

**Either type of permit may be issued to a portable plant. As discussed above, the type of permit that the Illinois EPA issues is based on the amount and type of emissions not on how long the business plans to stay at the location. Prior to moving a portable plant, Northwest Illinois Construction Company would need to obtain a construction permit for another site.**

13. What enforcement actions are being taken by the Illinois EPA due to the facility allowing the permit to expire?

**The Illinois EPA sent the source a Violation Notice and subsequently rejected the source's proposed Compliance Commitment Agreement. At this point, the Illinois EPA is tracking the situation to ensure that the company takes appropriate actions to bring the facility back into compliance, such as performing stack testing and obtaining a renewal FESOP.**

14. Does the facility need to stack test?

**Yes, the compliance plan proposed to address noncompliance at the facility required that the facility test emissions from the crusher. The now issued construction permit also required the company to test emissions from the asphalt plant to ensure that they will comply with limits established in the permit. Testing took place on May 31, 2007. However, there were errors in the testing methodology and the results of the test showed a failure to meet emissions limitations. The source re-tested on August 3, 2007, and passed. The facility still needs to**

**perform stack testing on the crusher which was installed prior to December 2005 without being first permitted.**

15. How long do they have to get that back into compliance?

**Testing of the asphalt plant determined that the source is not out of compliance with emissions limitations. They will be back in compliance with permitting regulations once their FESOP is issued, though they still need to test the crusher.**

16. Does somebody from the Illinois EPA physically come out and monitor the testing?

**Kevin Mattison, who monitors and reviews stack tests for the Illinois EPA, was present at the August 3, 2007, testing.**

17. Does the Illinois EPA ever do surprise inspections?

**Yes, inspections that are the result of complaints or otherwise when the Illinois EPA believes appropriate are performed without first notifying the company. The company may be notified prior to a planned inspection when there may be a need to speak to specific personnel, who may not otherwise be available.**

18. I'd like to be notified of any actions the Illinois EPA takes concerning the facility.

**Anyone who filled out a card at the hearing or submitted comments will be added to the mailing list for this site. The Illinois EPA will notify the persons on the mailing list when permit decisions are made or if there is an opportunity for public comment. Documents submitted to the Agency are also obtainable through a Freedom of Information Act (FOIA) request to the Illinois EPA.**

19. How much asphalt does the facility produce?

**The issued permit allows the facility to produce 325 tons per hour, 170,000 tons per month and 1.365 million tons per year.**

20. How much particulate matter is the facility allowed to emit.

**The issued permit allows the facility to emit up to 26.8 tons per year from all point sources. That amount does not include fugitive dust emissions, which must be controlled so that they do not blow across the property's boundaries.**

21. How can the facility continue to operate if they have no permit? Can the facility operate without a permit?

**The issued construction permit allows the facility to operate the asphalt plant for 12 months during which time the company needs to test the equipment to ensure compliance with the permit limits. After testing the company must revise its operating permit to continue operating at the levels allowed in the construction permit.**

22. How long does it take the Illinois EPA to bring a facility into compliance?

**Every case is different depending on the severity of non-compliance involved and the proposed resolution, whether the proposed resolution is acceptable to the Illinois EPA and how quickly the measures to resolve the non-compliance can be implemented. If the non-compliance needs to be sent to the Attorney General's Office for resolution in court, compliance resolution can take quite a while longer.**

23. This situation can be easily corrected by not renewing the permit.

**The permit under discussion at the hearing was not a renewal of the facility's operating permit. Instead, it is a construction permit that Northwest has requested to increase asphalt production. The operating permit will be the subject of a later public comment period after Northwest has performed the appropriate stack testing and the Illinois EPA has reviewed the testing and the renewal application.**

**In any case, the Illinois EPA cannot statutorily deny a permit if our review of an application, including review of public comments, indicates that the facility will meet the appropriate environmental regulations.**

24. The Illinois EPA should not allow the facility to operate within the city limits.

**The Illinois EPA does not have authority over zoning decisions. Zoning decisions are the purview of local decision making bodies such as the city council or county board.**

25. How long will the Illinois EPA allow a company to operate in one location?

**The Illinois EPA does not regulate how long a company may operate in one location. The Illinois EPA's authority extends only to making sure that a facility operates in accordance with the environmental regulations. If it is doing so, a facility may operate indefinitely, through renewals of its permit, at its location.**

26. How can you issue a permit to the facility if Rock Falls doesn't want the facility to be at this location?

**The Illinois EPA does not regulate zoning of facilities. It is the responsibility of local decision-makers to decide the appropriateness of land use.**

27. How do you monitor the sulfur emissions from the facility?

**The facility burns natural gas which is very low in sulfur. Therefore, the facility's emissions of sulfur dioxide are very small.**

28. Why was the facility issued a Violation Notice in 2006?

**The 2006 Violation Notice was issued for the following four reasons:**

- 1. Northwest Illinois Construction Company operated the facility without a permit,**
- 2. The company failed to conduct emission testing and opacity observations resulting from the modification of the asphalt plant,**
- 3. The company failed to submit to Illinois EPA performance test data to comply with New Source Performance Standards.**
- 4. The company failed to notify the Illinois EPA of the actual date of start-up of the new baghouse, crushing plant and increased production.**

29. Does the company have to perform a stack test on the facility every year?

**No, stack testing is generally required when a company changes or starts up operations. The company is required to calculate its emissions every year and submit an annual emission report to the Illinois EPA.**

30. Was there stack testing prior to 2005?

**Yes, there was stack testing in June, 1999, which established the lower limit in the previously issued permit. The company did not perform the stack testing at the full production level under which they wanted to operate, so the operating permit was modified to set the facility's throughput at a lower level. This construction permit would allow for the company to operate at the higher throughput limit, after performing the appropriate stack testing.**

31. Will the Illinois EPA hold a hearing on the renewal application? The Village of Rock Falls requests that the Illinois EPA hold a hearing on the renewal application.

**While that decision will not be made until the Illinois EPA's review of the operating permit application is complete, the Illinois EPA recognizes the level of interest in this facility and typically honors a request for a hearing if made by a city or if there is significant public interest, as in this case.**

32. When will the Illinois EPA have a draft permit and comment period on the renewal application?

**The Illinois EPA will not hold a comment period for the operating permit until after all required stack testing has taken place, the results submitted to the Illinois EPA and reviewed, and the renewal application has been reviewed and a draft permit prepared.**

33. Are there any changes to the permit?

**Typographical and calculational errors have been corrected; however, the main conditions of the permit allowing an increase in throughput have not been changed.**

34. Should we contact the Attorney General to have this facility shut down?

**Complaints should be submitted to the Illinois EPA at the contacts given above. If appropriate and only after first following its compliance procedures the Illinois EPA refers facilities to the Attorney General's Office for litigation.**

35. Has Northwest Illinois Construction been fined for being out of compliance?

**No, they have not. The Illinois EPA cannot fine somebody – only the Attorney General's Office has the authority to do that in such cases.**

36. What precipitates an enforcement action to go from this stage to the Attorney General's office?

**It varies from case to case, taking into account the severity of the violation, the size of the facility, the source's compliance history, and whether they have taken active steps to try to rectify the situation.**

**FOR ADDITIONAL INFORMATION**

Questions about the public comment period and permit decision should be directed to

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Illinois Environmental Protection Agency  
Office of Community Relations  
1021 North Grand Avenue, East  
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