



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

NOV 08 2012

REPLY TO THE ATTENTION OF:

J. Scott Huber  
Vice President – Petroleum Engineer  
Summit Petroleum Corporation  
1315 S. Mission Rd., P.O. Box 365  
Mount Pleasant, Michigan 48804

Dear Mr. Huber:

On September 11, 2012, the U.S. Environmental Protection Agency received a synthetic minor construction permit application (dated August 29, 2012) for Summit Petroleum Corporation's (Summit) existing Rosebush gas plant and two nearby well sites located in Rosebush, Michigan. EPA is reviewing the permit application. However, we wanted to inform you that in light of the stated basis of that application and the unique circumstances surrounding that basis, we have determined that our 60 day completeness review period under 40 C.F.R. § 49.158(c)(3) will end on December 30, 2012.

Summit submitted its application pursuant to 40 C.F.R. §§ 49.151(c)(1)(ii)(D), 49.153(a)(3)(v), and 49.158(c)(3). However, the application states that "[t]he scope of the application is based upon the August 7, 2012, determination by the United States Sixth Circuit Court of Appeals in the matter of *Summit Petroleum Corporation v. United States Environmental Protection Agency*, Docket Nos. 09-4348 and 10-4572" (hereinafter, "*Summit Decision*"). While we understand that Summit was required to submit this synthetic minor construction permit application by September 4, 2012, under 40 C.F.R. §§ 49.151(c)(1)(ii)(D) and 49.153(a)(3)(v), at that time, the stated basis for the scope of that application – the *Summit Decision* – was not yet final. Specifically, the period for seeking rehearing of the *Summit Decision* was still pending at that time, so the court had not yet issued the mandate authorizing the enforcement of the court's decision.<sup>1</sup> On October 21, 2012, EPA sought rehearing of the *Summit Decision*, arguing that the decision was flawed in key respects and asking the court to reconsider it. Although the court ultimately denied the rehearing request on October 29, 2012, the mandate finalizing the *Summit Decision* was not issued by the court until October 31, 2012.

Given that the *Summit Decision* is the basis for the scope of Summit's application and the Court's Decision did not become final until October 31, 2012, EPA could not begin to review

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<sup>1</sup> See 6 Cir. I.O.P 41(a)(1) (explaining that the purpose of issuing the mandate is to relinquish the court of its jurisdiction and authorizing enforcement of the court's order) and FRAP 41(b) (explaining that the mandate generally issues 7 days after the time to file a petition rehearing expires or 7 days after entry of an order denying a timely rehearing request).

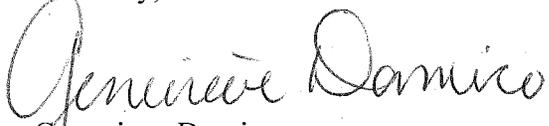
that application for completeness pursuant to 40 C.F.R. § 49.158(c)(3) until that date. To do otherwise would have been premature, especially since EPA was considering and ultimately sought rehearing of that Decision, which could have ultimately impacted the scope of Summit's application. The relevant rules allow EPA 60 days to review a submitted synthetic minor construction permit application to determine whether it is complete. Given the specific basis for Summit's application and unique facts surrounding it, EPA wants to ensure that we have the full 60 day period allowed under 40 C.F.R. § 49.158(c)(3) to determine whether the application contains the information necessary to make the source and application completeness determination, especially in light of the newly finalized *Summit* Decision. We are currently reviewing your application and will complete that review by December 30, 2012.

As we begin our review, we note that Summit's application states that the scope of the source was based on the *Summit* Decision, and explains in the Process Description for the Rosebush Gas Plant that two gas wells "are adjacent to the Rosebush Plan by having the same access driveway as the plant and are within ¼ mile of the plant" and are thus included as part of the source. In order to help with our assessment of Summit's permit application, we'd like to have a better understanding of the basis for your decision that these specific emission points are "adjacent." Please provide an explanation regarding why you believe that, under the *Summit* Decision, a distance of ¼ mile (as opposed to some greater distance) and existence of the shared driveway were relevant and determinative in making the proposed adjacency determination. If there is other information Summit would like us to consider as we make the source determination for this permitting action, including any reasons why other wells in the area are not adjacent, please provide it as well.

Please be advised that this specific request regarding your proposed adjacency determination does not mean that we have completed our evaluation of the entire application. If we determine that additional information is necessary to evaluate the completeness of or act on the application, then we may request additional information and require Summit's response in a reasonable time period.

If you have any questions, please contact Constantine Blathras, of my staff, at (312) 886-0671. We look forward to working with you in acting on this synthetic minor construction permit application.

Sincerely,



Genevieve Damico  
Chief  
Air Permits Section