

HEARING OFFICER'S REPORT

TO: The Honorable Greg Patterson
Cabinet Secretary, Department of Natural Resources and Environmental Control

FROM: Lisa A. Vest, Public Hearing Officer
Department of Natural Resources and Environmental Control

RE: Application of Graver Technologies, LLC, for a standard Coastal Zone permit (Project CZA-444P) to conduct a new manufacturing process to produce an industrial odor absorbent in an existing building at 800 Centerpoint Boulevard, New Castle, Delaware (Hearing Docket No. 2025-P-CCE-0003)

DATE: May 13, 2025

I. BACKGROUND AND PROCEDURAL HISTORY:

A virtual public hearing was held on Wednesday, March 26, 2025, at 6:00 p.m., via the State of Delaware Zoom Platform, to receive comment on the application of Graver Technologies, LLC (“Graver”, “Applicant”), for a standard Coastal Zone permit (Project CZA-444P) to conduct a new manufacturing process, specifically, to produce an industrial odor absorbent in an existing building at 800 Centerpoint Boulevard, New Castle, Delaware, pursuant to 7 *Del. C. Ch. 70, Coastal Zone Act* (“Application,” “proposed project”). The *Coastal Zone Act* (“CZA”) regulates new manufacturing activities, or the expansion of existing manufacturing uses, heavy industry, and bulk product transfer activities within Delaware’s Coastal Zone through a permitting system governed by DNREC.

The Coastal Zone is a geographic area that extends the length of the State of Delaware, along the Delaware River, the C&D Canal, the Delaware Bay, Inland Bays, and Atlantic Ocean, specifically defined by the CZA at 7 *Del.C. §7002(i)*. This public hearing was held pursuant to Delaware’s *Coastal Zone Act* and 7 DE Admin. Code 101, *Regulations Governing Delaware’s Coastal Zone* (“CZA Regulations”).

To serve as background in this matter, Graver proposes to renovate an existing building at 800 Centerpoint Boulevard, New Castle, Delaware, to manufacture Ecosorb, an industrial odor control product made of a blend of liquid and dry raw materials and activated carbon. The proposed operations include mixing a blend of raw wet and dry materials and activated carbon utilizing an electric powered industrial Scott mixer blender, drying the mixture, and packaging the final material. Additionally, an electric powered Donaldson Torit dust collector will be installed and operated to collect and reduce particulate matter emissions. An electric powered forklift will be utilized for moving the raw materials and the finished product. The final product will be stored on-site until it is shipped. Maximum production is expected to be 5,980 tons of Ecosorb per year.

Graver and the Department coordinated for several months over multiple CZA permit application revisions submitted prior to the Department deeming the current Application administratively complete. During this time, the Department's Coastal Zone Program, housed within DNREC's Division of Climate, Coastal and Energy, coordinated with other sections within the Department to request additional information on items such as emissions calculations, the offset proposal, public engagement, and local hiring preferences. On January 24, 2025, the Department received the final Coastal Zone Permit application from Graver, requesting a standard Coastal Zone permit for the proposed project (herein referred to as Project CZA-444P), and declared that Application administratively complete on February 23, 2025.

The Department requires a CZA Applicant to set forth in its permit application the proposed project's possible environmental impacts, including, but not limited to, any increased air emissions of pollutants, water quality/water quantity/water use, and the disposal of solid and hazardous wastes. Furthermore, any application for a CZA permit for an activity or facility that will result in any negative environmental impact shall contain an offset proposal. Pursuant to Section 9.0, *Offsets*, of the CZA Regulations, offset proposals must more than offset the proposed environmental impacts of any proposed project.

Pursuant to Delaware's CZA Regulations, the Secretary shall, in assessing CZA permit applications, consider how a proposed project will affect the following six criteria, as set forth in both 7 *Del.C.* §7004(b) and Section 8.0 of said Regulations: (1) Direct and cumulative environmental impacts; (2) Economic effects; (3) Aesthetic effects (4) Number and type of supporting facilities and their anticipated impacts; (5) Effect on neighboring land uses; and (6) Compatibility with local comprehensive plans. The following sections of this Hearing Officer's Report ("Report") describe relevant environmental impacts as a result of the project proposed by the Applicant in this matter.

Air emissions associated with the production of Ecosorb (3.75 pounds per day/0.68 tons per year of total particulate matter) would be captured by a dust collection system and would, per the Secretary's Assessment Report, dated Feb. 23, 2025 (hereinafter referred to as the "SAR" and attached hereto as Appendix "A"), equate to zero air emissions from the manufacturing process. Forklifts used in the facility would be electrical and would not add to air emissions. With the installation and use of the dust collector for the production process, there is expected to be a net zero increase in particulate matter when compared to pre-operation levels. As an additional pollution control measure, Graver will install an air purifier (referred to as an "air scrubber" in the Application).

The Applicant's manufacturing process uses a maximum of 3,500 gallons of water per day from the City of New Castle municipal water supply. Wastewater would only be generated when the floors are washed (approximately once to twice per month) and would not exceed 400 gallons per month. The water would drain directly into the City of New Castle sewer system from drains in the floor of the building. The wastewater discharged into the sewer system could contain an activated carbon concentration no greater than 50 parts per million ("ppm") from the cleaning of the equipment used in the manufacturing process. However, dry activated carbon will be collected and reused in the product line. It should be noted that the City of New Castle has indicated to the Applicant that a sewer permit will not be required for wastewater for the activities associated with the proposed project.

The manufacturing of Ecosorb would produce routine solid wastes and thus requires no additional permits for the disposal of such waste material. Also, the new activity associated with the Applicant's proposed project would not generate an increase in stormwater runoff, as the same would occur within an existing building with no increase in impervious surfaces. Employees would wear personal protective equipment inside of the building, and the proposed project would not generate glare, heat, noise, vibration, radiation, electromagnetic interference, or obnoxious odors outside of the existing building. Additionally, since the proposed project would operate within an existing building, such activity would not impact land erosion, wetlands, or habitat for flora and fauna. It should be noted that the Department's Division of Fish and Wildlife did not identify any threatened or endangered species in the area around the existing building to be utilized for the Applicant's proposed project.

Regarding the Applicant's proposed project having potential to pollute, the hearing record ("Record") reflects that the operations of the proposed project would be entirely inside of an existing building. All particulate matter is anticipated to be captured by the proposed dust collection system. The SAR notes that the greatest potential to pollute would occur if the filtration elements of the dust collect were to be damaged or if the dust collector has a mechanical failure. Thus, the dust collector will be inspected daily, as part of the Applicant's routine factory operation. In the case of damage or mechanical failure of the dust collector, production of Ecosorb would be halted immediately until the system was repaired.

Turning to potential economic effects of the Applicant's proposed project, the SAR notes that a total of twenty-seven (27) permanent full-time year-round employees are projected to be hired to directly support the production of Ecosorb with salaries and/or wages ranging from \$25,000 to over \$100,000 per year. No hiring of part-time staff is anticipated. Graver has hired a team of eight (8) construction workers for the building renovation process at approximately \$110/hour. Taxes attributable to the manufacturing process of Ecosorb include State corporate income taxes of \$116,000 and Federal income taxes of \$254,000. Property taxes are covered by the landlord as part of the lease agreement. The proposed project is anticipated to result in approximately \$1,171,966 of gross receipts.

As noted previously, the activities associated with the Applicant's proposed project will occur within an existing building. Thus, there are no impacts to the aesthetics of the area, nor are there any new support facilities needed for this project.

With regard to potential effects on neighboring land uses, Graver would be conducting this proposed manufacturing on an existing industrial site zoned by the City of New Castle as "regular industrial" and would therefore be compatible with neighboring land uses. The SAR does note that there is a residential subdivision currently under construction located approximately 175 feet to the south of 800 Centerpoint Boulevard (the proposed project location). The two are separated by an active railroad and tree line. Again, the proposed project would be entirely contained within the existing building and should not negatively impact neighboring land uses. Lastly, the City of New Castle has confirmed that the proposed project is consistent with city and municipal planning.

Section 9.1.1 of the CZA Regulations states that "[a]ny application for a CZA permit for an activity or facility that will result in a negative environmental impact shall contain an offset proposal." Moreover, Section 9.1.2 notes that such offset proposals "...shall more than offset the negative environmental impact associated with the proposed project of activity requiring a permit...." As stated in the certified environmental impact statement provided by Graver in this matter, with the use of the dust collector and air purifier as mitigation measures, the proposed project will not have any negative environmental impacts, and therefore no offsets for this project are required.

The Department received the current final Application from Graver on January 24, 2025, and the Department's determination that the Application was administratively complete was declared in the SAR on February 23, 2025, as noted above. On March 5, 2025, the Department published Legal Notice of this information, advising that the Application was available for public comment and that the Department would be holding a virtual public hearing regarding this matter on March 26, 2025, in the *News Journal*, the *Delaware State News*, the DNREC website (in both English and Spanish), the *Delaware Public Meeting Calendar*, and by direct email to Coastal Zone Act Email List subscribers.

Accordingly, the Department held the virtual public hearing regarding this pending Application on March 26, 2025, as noted above. Department staff and one member of the public attended the hearing. Following the date of the public hearing, the comment period remained open through April 13, 2025; however, no comment was received by the Department from the public during any phase of this permitting matter. Proper notice of the hearing was provided as required by law.

II. SUMMARY OF THE PUBLIC HEARING RECORD:

The Record consists of the following documents:

- (1) Official verbatim Court Reporter's transcript from Veritext, dated March 26, 2025;
- (2) Eleven (11) documents introduced by responsible Department staff at the public hearing held on March 26, 2025, and marked by this Hearing Officer accordingly as "Department Exhibits 1-11";
- (3) Copy of the Applicant's PowerPoint presentation offered by Graver representatives at the public hearing and marked accordingly as "Applicant Exhibit 1";
- (4) Draft Permit CZA-444P and Draft Decision Letter to be issued to Graver, should the Secretary approve the same, provided to this Hearing Officer on May 13, 2025, and attached hereto for the Secretary's review as Appendices "B" and "C," respectively.

The Department's person primarily responsible for reviewing the Application, Eddie Meade, Environmental Scientist IV, DNREC Coastal Program, Division of Climate, Coastal and Energy, developed the Record with the relevant documents in the Department's files.

Representing the Applicant at the hearing was Gregory Parks, Project Manager, and William Wallace, Vice-President and General Manager for Graver's Absorbents division.

Following opening remarks from this Hearing Officer and Mr. Meade's presentation on behalf of the Department, Graver representatives offered the Applicant's presentation for the benefit of the Record, which included background concerning the Applicant's facility and a brief description of the proposed project. Again, no comment was received by the Department from the public during any phase of this permitting matter.

III. RECOMMENDED FINDINGS AND CONCLUSIONS:

Currently pending before the Department is Graver's Application requesting a standard Coastal Zone permit for Project CZA-444P, to conduct a new manufacturing process in an existing building at 800 Centerpoint Boulevard in New Castle, Delaware. The Applicant proposes to produce an industrial odor absorbent, Ecosorb. I find that the Applicant's proposed project location is located within Delaware's Coastal Zone. I also find that, as set forth in the certified Environmental Impact Statement provided by Graver in this matter, with the use of the dust collector and air purifier as mitigation measures, the proposed project will not have any negative environmental impacts, and therefore no offsets for this project are required.

The Department is to evaluate a CZA application based upon a consideration of the CZA's balancing of economic and environmental factors. As previously noted, 7 *Del.C.* §7004(b) requires the Department to consider the following issues of any given proposed project: (1) environmental impacts; (2) economic impacts; (3) aesthetic impacts; (4) the number and type of supporting facilities required and their impacts on all other factors; (5) the impact on neighboring land uses; and (6) the county and municipal comprehensive plans. The Record developed in this matter indicates that the Department's experts have considered the above factors and have recommended issuance of the finalized Draft Permit CZA-444P to the Applicant in this matter. Further, the experts recommended that Graver's Application for the above-described proposed project is sufficient, and that the same requires no offset proposal.

The mission of DNREC is to engage stakeholders to ensure the wise management, conservation, and enhancement of the State's natural resources; protect public health and the environment; provide quality outdoor recreation; improve quality of life; lead energy policy and climate preparedness; and educate the public on historic, cultural, and natural resource use, requirements, and issues. Furthermore, it is the policy of DNREC that no person shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance, as provided by Title VI of the *Civil Rights Act of 1964*, the *Rehabilitation Act of 1973*, the *Civil Rights Restoration Act of 1987*, and all other related nondiscrimination laws and requirements. Title VI requires that DNREC take specific actions to ensure compliance with federal law that includes ensuring that all contractors, sub-contractors, and sub-recipients awarded DNREC funded contracts and grants adhere to Title VI and any related laws, regulations, and rules. Title VI also requires DNREC to provide free language assistance to Limited English Proficient ("LEP") persons. In the present matter, the Department has determined that the Record compiled regarding the Applicant's proposed project, including, but certainly not limited to, the Draft Permit attached hereto, is consistent with the Department's Civil Rights policy.

The Record developed in this matter further indicates that the Department's experts in the Division of Climate, Coastal and Energy have, based upon their technical review of the information provided by Graver, recommended approval of the Applicant's proposed project. I find and conclude that the Applicant has adequately demonstrated its compliance with all requirements of Delaware's *Coastal Zone Act* and its CZA Regulations, as noted herein, and that the Record supports approval of Graver's Application for a standard Coastal Zone permit for Project CZA-444P. In conclusion, I recommend that the finalized Permit CZA-444P, consistent with the Record developed in this matter, be issued by the Department in the customary form, and with appropriate conditions, to ensure continued improvement of environmental quality in the Coastal Zone of the State of Delaware.

Further, I recommend the Secretary adopt the following findings and conclusions:

1. The Department has jurisdiction under its statutory authority, pursuant to Delaware's *Coastal Zone Act* and the CZA Regulations, to grant requests for major modifications to an existing CZA Permit, subject to reasonable permit conditions deemed appropriate and consistent with the CZA's purposes;
2. The Department provided adequate and lawful public notice of Graver's Application requesting a standard Coastal Zone permit for Project CZA-444P, and of the public hearing held on March 26, 2025, and held said hearing to consider any public comment that may be offered on said Application, in a manner required by the law and Delaware's CZA Regulations;
3. The Applicant's request for a standard Coastal Zone permit for Project CZA-444P is for production/manufacturing activities which will take place within the defined Coastal Zone of Delaware, specifically, to conduct a new manufacturing process, in an existing building at 800 Centerpoint Boulevard in New Castle, Delaware, to produce an industrial odor absorbent known as Ecosorb. As noted herein, with the use of the dust collector and air purifier as mitigation measures, the proposed project will not have any negative environmental impacts, and therefore no offsets for this project are required;
4. The Department has reviewed and carefully considered all factors required to be weighed in issuing a standard Coastal Zone permit for Project CZA-444P, and finds that the proposed project is acceptable for the Coastal Zone at the proposed location, and that it should be permitted as set forth in Graver's Application;

5. Furthermore, the Department has reviewed the Record generated in this matter and has determined that the issuance of the finalized Permit CZA-444P is consistent with the Department's Civil Rights policy;
6. The Department shall issue the finalized Permit CZA-444P to the Applicant, Graver Technologies, LLC. Said permit shall include all conditions consistent with the final Order and any other reasonable conditions that the Department includes in a CZA permit, to ensure that Delaware's environment will be protected from harm, consistent with the CZA and its Regulations;
7. The issuance of finalized Permit CZA-444P does not relieve the Applicant of the legal obligation of compliance with all building permits, subdivision, and other applicable code requirements of the county or municipality wherein the permitted project is located;
8. If there are deviations from the Applicant's proposed plan and operations previously approved by the Secretary, Graver shall notify the Secretary as soon as possible. If the Secretary receives information which he or she believes may alter the scope of the project, the Secretary may revoke the permit or require Graver to submit a new application to reflect the altered nature of the project;
9. The aforementioned finalized CZA permit will allow the Applicant to operate its business while reducing the overall environmental impacts to the Coastal Zone area, in furtherance of the purposes of 7 *Del. C.*, Ch. 70;
10. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and

11. The Department shall serve and publish its Order on its internet site.

/s/Lisa A. Vest
LISA A. VEST
Public Hearing Officer

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Attachments:

Appendix A: Secretary's Assessment Report, (02/23/2025)
Appendix B: Draft Permit CZA-444P
Appendix C: Draft CZA Program Decision Letter