



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**
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OFFICE OF THE
SECRETARY

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Secretary's Order No: 2021-A-0020

RE: Application of Atlantic Concrete Company Inc. for a Natural Minor Construction Permit

Date of Issuance: August 10, 2021

Effective Date: August 10, 2021

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department," "DNREC") pursuant to 7 *Del.C.* §§6003, 6004, 6006(4), and all other relevant statutory authority, the Department issues this Order, approving the revised application submitted by Atlantic Concrete Company Inc. ("Applicant") for a Natural Minor Construction Permit to construct a new concrete manufacturing plant to replace two existing plants located at 16762 Old Orchard Road, Lewes, DE ("Application") in accordance with 7 DE Admin. Code 1102 - Permits ("Regulation"). The following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced Natural Minor Construction Permit application proceeding.

Background, Procedural History and Findings of Fact

Pursuant to 7 *Del.C.* Ch. 60, the Department's Division of Air Quality ("DAQ") received the initial application submitted by the Applicant on January 29, 2020. The Applicant proposed to construct a new concrete plant, the Stephens Empire Concrete Dry Batch Plant, located at 16762 Old Orchard Road, Lewes, DE and decommission two of the existing plants at this same location, the Heltzel Batch Concrete Plant and the Truck Mix Concrete Batch Plant, once the new plant was constructed. The initial application proposed that the Stephens Empire Concrete Dry Batch Plant would produce 530 tons per hour ("TPH") of concrete and would consist of the following equipment: one (1) 14-yard cement batcher; one (1) Stephens Multiple Compartment Storage Silo; one (1) C&W Model RA120 Reverse Air Central Dust Collector; three (3) Stephens SOS-1020 Cartridge Pulse Silo Dust Collectors; one (1) Stephens SV-20 Cement Batcher Vent; and ancillary equipment. The Applicant also proposed that the Stephens Empire Concrete Dry Batch Plant would utilize an electric air compressor to provide power to operate the plant and an 8.0 MMBtu (Million British Thermal Unit)/hour boiler, utilizing natural gas to heat the water (as needed).

Following review of the initial application by the Department, and discussion with the Applicant, the initial application was rescinded, and a revised Application was received by the Department on January 22, 2021. The revised Application proposes to construct the new concrete manufacturing plant as described in the initial application; however, the Applicant has revised the amount of concrete produced at the new concrete plant to 350 TPH, which equals the same amount of concrete produced at the two concrete plants that will be decommissioned. Additionally, the Applicant requests the same restrictions for the new concrete plant, as to what is currently permitted for the Truck Mix Concrete Batch Plant: (1) a throughput restriction of 200,000 cubic yards of concrete per rolling twelve (12) month period; (2) an annual (rolling twelve month) restriction of 3,744 hours of operation, and (3) to maintain its annual concrete production restriction and hours of operation restriction. All equipment proposed in the initial application remains the same. The Department placed the revised application on public notice and received a request for a public hearing.

On May 12, 2021, a virtual public hearing was held by the Department. The Department's staff from the DAQ, primarily responsible for reviewing this Application, developed the hearing record ("Record") with the relevant documents in the Department's files. The Applicant's Consultant, RainWise Environmental Solutions, LLC, provided an overview of Atlantic Concrete Company Inc. and provided a presentation which was marked into the Record at the time of the virtual public hearing. There were six (6) members of the public in attendance at the hearing. At the conclusion of the virtual public hearing, the Record remained open for 15 days and comment was received through May 28, 2021.

Following the close of record, and at the request of Hearing Officer Theresa Newman, the technical experts in the DAQ prepared a Technical Response Memorandum ("TRM") to: (1) address the concerns associated with this pending revised Application, as set forth in the public comment received by the Department; (2) provide a formal regulatory review of the Applicant's proposed project; and (3) offer the DAQ conclusions and recommendations with regard to the Applicant's pending revised Application for the benefit of the Record generated in this matter.

The Department's DAQ technical experts addressed the public health and environmental impact concerns raised by the public. As a part of the application review process, the Department performed air dispersion modeling using the Environmental Protection Agency's National Ambient Air Quality Standards for particulate matter. The Department concludes that the public health, safety, and welfare are presumed to not be adversely impacted by the emissions, as the particulate matter is below the Environmental Protection Agency's National Ambient Air Quality Standards. In addition, inclusion of the Dust Control Plan and Noise Reduction Plan in the permit will address noise and dust issues raised through additional comments.

Subsequent to the Department's TRM having been received for inclusion into the Record, the Department's presiding Hearing Officer prepared a Hearing Officer's Report dated July 26, 2021 ("Report"). Ms. Newman's Report set forth the procedural history, summarized and established the record of information ("Record") relied on in the Report, and provided findings of fact, reasons, and conclusions that recommend the Department approve this revised

Application, subject to the conditions set forth in the draft permit. The Report concluded that the draft Natural Minor Construction Permit is protective of human health and the environment while being consistent with applicable zoning requirements and federal and state air pollution control laws and regulations.

Pursuant subsection 5.1.15 of the *Regulations Governing Delaware's Coastal Zone*, as the parcel indicated for the proposed project is located within the Coastal Zone, the proposed activity does not require a Coastal Zone Act permit because the proposed project is considered a "replacement in-kind of existing equipment."

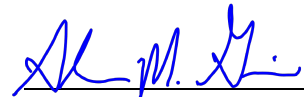
Reasons and Conclusions

Based on the Record developed by the Department's experts and established by the Hearing Officer's Report, I find and conclude that the Record developed in this matter supports approval of the Applicant's revised Application for a Natural Minor Construction Permit, consistent with 7 DE Admin. Code 1102 - *Permits*. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that a Natural Minor Construction Permit be issued to the Applicant to construct a new concrete manufacturing plant to replace two existing plants located at 16762 Old Orchard Road, Lewes, DE.

I further direct that the following reasons and conclusions are entered:

1. The Department has jurisdiction under 7 *Del. C.* §§6003, 6004, 6006(4) and all other relevant statutory authority, to make a final determination of the Application after holding a public hearing, considering the public comments, and reviewing all information contained in the Record generated in this matter;
2. The Department provided proper public notice of the revised Application submitted by Atlantic Concrete Company Inc. and of the public hearing held on May 12, 2021. Further, the Department held said hearing to consider all public comment that may be offered on the revised Application, in a manner required by the law and regulations;

3. The Department has carefully considered the factors required to be weighed in issuing the Natural Minor Construction Permit required by this revised Application, and finds that the Record supports approval of the revised Application and the issuance of the Natural Minor Construction Permit associated with the same;
4. The Department shall issue the Natural Minor Construction Permit to the Applicant, Atlantic Concrete Inc., to construct a new concrete manufacturing plant to replace two existing plants located at 16762 Old Orchard Road, Lewes, DE, consistent with the Record developed in this matter. Furthermore, said permit shall include all conditions as set forth in the Department's draft permit, to ensure that Delaware's environment and public health will be protected from harm;
5. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and
6. The Department shall serve and publish its Order on its internet site, and shall provide legal notice of the Order in the same manner that the Department provided legal notice of the Application.



Shawn M. Garvin
Secretary