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DEPARTMENT OF NATURAL RESOURCES  
AND ENVIRONMENTAL CONTROL  
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Secretary

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**Secretary's Order No.: 2019-CZ-0039**

**RE: Application of Veolia North America Regeneration Services, LLC, for a Coastal Zone Act Permit to increase its sulfuric acid regeneration production from 550 Tons Per Day ("TPD") to 750 TPD at its Red Lion facility located at 766 Governor Lea Road, New Castle, Delaware**

**Date of Issuance: September 29, 2019**

**Effective Date: September 29, 2019**

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC") pursuant to 7 *Del.C.* §§6001 *et seq.*, 7 *Del.C.* Ch. 70, *Coastal Zone Act*, and 7 DE Admin. Code 101, *Regulations Governing Delaware's Coastal Zone*, the following findings of fact based on the record, reasons, and conclusions are entered as an Order of the Secretary in the above-referenced Coastal Zone Act permitting proceeding.

**Background and Findings of Fact**

The Applicant, Veolia North America Regeneration Services, LLC ("Applicant" or "Veolia"), seeks a Coastal Zone Act ("CZA") Permit to increase its sulfuric acid regeneration production from 550 Tons Per Day ("TPD") to 750 TPD at its Red Lion facility, located at 766 Governor Lea Road in New Castle, Delaware. Veolia currently operates its Red Lion facility on land leased from the Delaware City Refinery Company ("DCRC") in Delaware City, Delaware, in accordance with (1) CZA Permit #406; and (2) Division of Air Quality ("DAQ") Title V Operating Permit #AQM-003/00673 (Revision 3).

The Applicant's Red Lion plant is a sulfuric acid regeneration ("SAR") facility. Veolia receives spent sulfuric acid from DCRC, which is then treated through a series of heating, cooling and cleaning processes to ultimately produce a final product of non-fuming sulfuric acid, commonly used as a pickling agent in such applications as steel manufacturing, wastewater treatment, and the manufacture of petroleum products.

The Applicant's facility runs continuously (365 days per year), and uses a mist eliminator, a caustic scrubber, and a vapor combustion unit to reduce air emissions. The proposed production increase will require an increased flow through the current piping and treatment facility, however, no new construction or equipment, nor any changes in current operating procedures, will be necessary. Although the Applicant's Red Lion facility does not occupy more than 20 acres itself, it is categorized as a heavy industry use, involving tanks, chemical processing equipment and scrubbing towers within the footprint of the DCRC (one of the fourteen heavy industry use sites under Delaware's CZA). Since the Applicant's existing CZA permit limits production to 550 TPD, the facility may not increase production to 750 TPD without the issuance of a new CZA permit.

The Department requires a CZA applicant to set forth in its 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, which must more than offset the environmental impacts of any proposed project, pursuant to Section 9.0, "Offsets" of Delaware's Coastal Zone Regulations.

In the present matter, Veolia currently emits air pollutants in accordance with its Title V Operating Permit # AQM-003/00673. The facility's proposed increase in production would increase its annual air emissions, however the increased emissions would still remain within the limits of the current Title V permit. Veolia's proposed production increase is estimated to increase its annual air emissions of sulfur dioxide (SO<sub>2</sub>), sulfuric acid (H<sub>2</sub>SO<sub>4</sub>) mist, nitrogen oxide (NO<sub>x</sub>), carbon monoxide (CO), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), and volatile organic compounds (VOC) by a combined total of 31.643 tons.

Wastewater generated during the process is neutralized by adding caustic prior to being discharged to the DCRC wastewater treatment plant (which operates under existing National Pollutant Discharge Elimination System [NPDES] permit #DE 0000256). In the Applicant's process, a higher rate of production causes a greater proportion of the waste sulfur compounds to be emitted to the air, and less emissions to the wastewater. The proposed production increase will not increase the amount of wastewater Veolia generates on an annual basis.

The facility's stormwater discharges to surface waters will not change as a result of the project, since no new construction, buildings, or equipment are being installed in association with the proposed increase in production. Stormwater is generated by runoff from the facility's existing buildings and equipment, and is directed to the DCRC for treatment at its wastewater treatment plant prior to discharge at Outfall 001 to the Delaware River. The Applicant's increased production will continue to draw cooling water from DCRC's existing water allocation, as it has in the past, without the need for any new withdrawals.

With regard to solid waste generated by the Applicant's process (which includes neutralized wastewater, scrap metal, catalyst, universal waste, and used oil), it will continue to be either treated and disposed of at the DCRC, or transported and disposed of at permitted facilities offsite. Additionally, since there will be no construction and no new equipment necessitated by the proposed increase, the project will not affect wetlands or habitat for flora and fauna. Lastly, the Applicant's proposed project will not increase or affect glare, heat, noise, vibration, radiation, electromagnetic interference or obnoxious odors.

The Department anticipates no economic effects from Veolia's proposed production increase, as the Application states that there will be no construction, no new hires, and no new tax revenues. Additionally, the project will not result in the creation of any new supporting facilities.

The project site is contained within the footprint of the DCRC property, and will continue to be operated as heavy industry, in an area that is surrounded by heavy industry. Thus, the Applicant's proposed project will have no effect on the aesthetics of the area, as the facility is not undergoing any construction or changes in appearance. Since the project will not entail any construction, supporting facilities or major operational changes, there will also be no new effect on neighboring land uses. Lastly, the proposed facility and operation is consistent with the New Castle County Comprehensive Plan. It is located in the "Heavy Industrial" Zoning District in New Castle County, and the Applicant's proposed project has been deemed an "allowable continued use" at that location.

With regard to the Applicant's Offset Proposal in this matter, DNREC Policy stipulates that negative environmental impacts resulting from projects requiring a CZA Permit be offset at a 1.3:1 ratio. The Applicant has proposed to more than offset the environmental impacts of the increased air emissions with a decrease in emissions from a neighboring facility, Formosa. Even though such an offset is not required by DAQ, both the Department's Coastal Zone Program and the Applicant have coordinated with DAQ on the air emission offsets to verify that they are technically correct, and that they are sufficient to meet the aforementioned offset standard noted above. The Applicant has proposed offsets for VOC and NOx emissions that comport with the State's Emission Banking and Trading Program.

It should be noted that DAQ does not require air emission offsets for pollutants other than VOC and NO<sub>x</sub>. The Department's Coastal Zone Program, however, is requiring the Applicant to more than offset those air emissions outside of the DAQ regulatory realm (those emissions include H<sub>2</sub>SO<sub>4</sub>, CO, and PM). Veolia calculated the emissions that are expected to result from the proposed increase in production, and these emissions are to be offset at a Ratio of 1.3 to 1. The offsetting emissions acquired by Veolia from the retiring Formosa facility are at a ratio of 1.3 to 1, which, again, satisfies the Department's offset standard. Formosa wrote the DAQ to apply for certification of emission reduction on April 15, 2019 (including all the information as required by 7 Del. Admin. Code 1134). The DAQ has agreed to track both the emissions and the offsets in this matter, to ensure that the emissions are properly credited and eliminated.

### **Procedural History**

The Department initially received the CZA permit application of Veolia on March 25, 2019 (along with an addendum provided on June 7, 2019). The Applicant's CZA permit application was then determined to be administratively complete by my signing of the Secretary's Environmental Assessment Report on June 30, 2019. Thereafter, the Department held a public hearing at the DNREC offices located at 391 Lukens Drive, New Castle, Delaware on Tuesday, July 16, 2019. Proper notice of the hearing was provided as required by law.

The only comments received by the Department in this matter were those offered by Martin Willis, who was the only member of the public that attended the public hearing on July 16, 2019. While Mr. Willis recommended that Veolia's pending CZA permit application be approved by DNREC, he did have several questions with respect to the Applicant's offset proposal. In response to those questions, the Department's Division of Energy and Climate provided a Technical Response Memorandum ("TRM") to specifically address those issues. The Department's TRM identifies all of the questions raised by Mr. Willis at the public hearing on July 16, 2019, and responds to them in a balanced manner, accurately reflecting the information contained in the formal hearing record.

At the conclusion of the public hearing, the record was closed with regard to public comment. The Department's presiding Hearing Officer, Lisa A. Vest, prepared a Hearing Officer's Report dated September 17, 2019 ("Report").

### **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 Veolia North America Regeneration Services, LLC's application for a CZA permit, consistent with the intent of Delaware's *Coastal Zone Act* and the *Regulations Governing Delaware's Coastal Zone*, which is to balance the economic and environmental interests of the State of Delaware. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that a CZA permit be issued to the Applicant to increase its sulfuric acid regeneration production from 550 TPD to 750 TPD at its Red Lion facility, located at 766 Governor Lea Road in New Castle, Delaware.

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

1. The Department has jurisdiction under its statutory authority to issue a CZA Permit to the Applicant, subject to reasonable permit conditions deemed appropriate and consistent with the CZA's purposes;
2. The Department provided adequate and lawful public notice of the Coastal Zone Act Application of Veolia North America Regeneration Services, LLC, and of the public hearing held on July 16, 2019, and held said hearing to consider any public comment that may be offered on the application, in a manner required by the law and regulations;

3. The permit applied for by Veolia North America Regeneration Services, LLC, is for production/manufacturing activities which will take place within the defined Coastal Zone of Delaware, specifically, for a production increase of its sulfuric acid regeneration from 550 TPD to 750 TPD, at its Red Lion facility, located at 766 Governor Lea Road in New Castle, Delaware. Environmental impacts are anticipated, however the emission reduction credits acquired from the retiring Formosa facility by the applicant are at a ratio of 1.3 to 1, which satisfies the Department's offset standard. Additionally, DAQ has agreed to track both the emissions and the offsets associated with this proposed project, to ensure that all emissions are properly credited and eliminated;
4. The Department has carefully considered the factors required to be weighed in issuing a CZA permit, and finds that the proposed use is appropriate for the Coastal Zone at the proposed location, and that it should be permitted as set forth in Veolia North America Regeneration Services, LLC's application;
5. The Department shall issue a permit to the Applicant, Veolia North America Regeneration Services, LLC, and 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;
6. The Department has carefully considered all the statutory factors to be considered in making a decision on a CZA permit, and those required to be considered under the CZA Regulations;
7. The issuance of the aforementioned CZA permit does not relieve Veolia North America Regeneration Services, LLC, 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, Veolia North America Regeneration Services, LLC, 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 Veolia North America Regeneration Services, LLC, to submit a new application to reflect the altered nature of the project;
9. The aforementioned 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 all affected persons in a manner consistent with the service and publication of the Secretary's Order.

  
Shawn M. Garvin  
Secretary