



west virginia department of environmental protection

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Response to Public Comments

Antero Treatment LLC

Antero Landfill

R13-3331

Date: October 24, 2016

Promoting a healthy environment.

Table of Contents

BACKGROUND INFORMATION	3
OVERVIEW OF COMMENTS RECEIVED	3
ORGANIZATION OF RESPONSE.....	3
GENERAL RESPONSE TO COMMENTS	4
<i>Statutory Authority of DAQ.....</i>	<i>4</i>
<i>Statutory Basis for Permit Denial</i>	<i>4</i>
<i>DAQ Permitting Process in Context.....</i>	<i>5</i>
<i>General Response Conclusion.....</i>	<i>5</i>
SPECIFIC RESPONSES TO COMMENTS.....	6

BACKGROUND INFORMATION

On September 14, 2016, pursuant to §45-13-8, the West Virginia Division of Air Quality (DAQ) provided notice to the public of a preliminary determination to issue Permit Number R13-3331 to Antero for the construction of the Antero Landfill proposed to be located near Greenwood, Doddridge County, WV.

At that time, the draft permit and Engineering Evaluation/Fact Sheet were made available to the public for review. The permit application had previously been available for public review and remained so during the public comment periods.

The public notice was followed by a public comment period (required to be a minimum of 30 days under §45-13-8) scheduled to end at 5:00 P.M. October 17, 2016. During the public comment period, the DAQ accepted comments on our preliminary determination to issue permit R13-3331 to Antero and on all documents related thereto.

OVERVIEW OF COMMENTS RECEIVED

The DAQ received two (2) written comments during the public comment period. Comments were received from the following individuals:

- Mirijana Beram
- Tina Del Prete

Pursuant to §45-13-8.8, all submitted comments received during the public comment period have been reviewed and are appropriately addressed in this document.

ORGANIZATION OF COMMENT RESPONSE

The DAQ's response to the submitted comments includes both a general and specific response section. The general response defines issues over which the DAQ has authority and by contrast, identifies those issues that are beyond the purview of the DAQ. The general response also describes the statutory basis for the issuance/denial of a permit and discusses the role of the pre-construction permitting process in the larger divisional goal of maintaining air quality in WV.

The specific response summarizes each relevant non-general comment that falls within the purview of the DAQ and provides a response to it. This document does not reproduce all the comments here (they are available for review in the file). Instead, each comment is summarized and key points are listed. The DAQ makes no claim that the summaries are complete; they are provided only to place the responses in a proper context. For a complete understanding of submitted comments, please see the original documents in the file. The DAQ responses, however, are directed to the entire comments and not just to what is summarized. Comments that are not directly identified and responded to in the specific response section of this document are assumed to be answered under the general response section (or not relevant to the Antero applications or an air quality-related issue).

GENERAL RESPONSE TO COMMENTS

Statutory Authority of the DAQ

The statutory authority of the DAQ is given under the Air Pollution Control Act (APCA) - West Virginia Code §22-5-1, *et. seq.* - which states, under §22-5-1 (“Declaration of policy and purpose”), that:

It is hereby declared the public policy of this state and the purpose of this article to achieve and maintain such levels of air quality as will [underlining and emphasis added] protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state and facilitate the enjoyment of the natural attractions of this state.

Therefore, while the code states that the intent of the rule includes the criteria outlined in the latter part of the above sentence, it is clear by the underlined and bolded section of the above sentence that the scope of the delegated authority does not extend beyond the impact of air quality on these criteria. Based on the language under §22-5-1, *et. seq.*, the DAQ, in making determinations on issuance or denial of permits under 45CSR13, does not take into consideration substantive non-air quality issues such as job creation, economic viability of proposed product, energy independence, nuisance potential (sight line obstruction, traffic), non-air quality environmental impacts, grant eligibility, etc. Beyond the DAQ’s position that the code does not grant us the authority to take into consideration such issues, it is also self-evident that these issues are beyond the expertise of the Division of Air Quality and that most are regulated by other bodies with the mandates and expertise to do so.

Statutory Basis for Permit Denial

Pursuant to §22-5-4 (“Powers and duties of director; and legal services; rules”), the DAQ is authorized:

To promulgate legislative rules . . . providing for . . . [p]rocedures and requirements for permit applications, transfers and modifications and the review thereof;

This authorization is effected under WV Legislative Rule 45CSR13 - “Permits for Construction, Modification, Relocation and Operation of Stationary Sources of Air Pollutants, Notification Requirements, Administrative Updates, Temporary Permits, General Permits, and Procedures for Evaluation.” Pursuant to §45-13-5.7, the DAQ shall issue a permit unless:

a determination is made that the proposed construction, modification, registration or relocation will violate applicable emission standards, will interfere with attainment or maintenance of an applicable ambient air quality standard, cause or contribute to a violation of an applicable air quality increment, or be inconsistent with the intent and purpose of this rule or W. Va. Code §22-5-1 *et seq.*, in which case an order denying such construction, modification, relocation and operation shall be issued. The Secretary shall, to the extent possible, give priority to the issuance of any such permit so as to avoid undue delay and hardship.

It is clear under 45CSR13 that denial of a permit must be based on one of the above explicitly stated criteria or, as noted, is inconsistent with the intent of 45CSR13 or §22-5-1, *et. seq.* As is stated above, it is the DAQ's position that the intent of both the APCA and 45CSR13 is to limit the authority of the DAQ to air quality issues as outlined in the APCA and in West Virginia's State Implementation Plan (SIP).

The air quality issues evaluated relating to Antero's application to construct a salt landfill are outlined in the DAQ's Engineering Evaluation/Fact Sheets made public on September 14, 2016. The issues covered under those documents represent the extent of the substantive air quality issues over which the DAQ believes it has authority to evaluate under 45CSR13 and the APCA as relating to Antero's permit application R13-3331.

DAQ Permitting Process in Context

It is important to note that the DAQ permitting process is but one part of a system that works to meet the intent of the APCA in WV. The DAQ maintains a Compliance/Enforcement (C/E) Section, an Air Monitoring Section, a Planning Section, *etc.* to effect this. Most pertinent to the permitting process, the C/E Section regularly inspects permitted sources to determine the compliance status of the facility including compliance with all testing, monitoring, record-keeping, and reporting requirements.

General Response Conclusion

In conclusion, in response to all commenters who referenced substantive non-air quality issues, the APCA and 45CSR13 does not grant the DAQ the authority to take into consideration such issues in determining to issue or deny the permit. Further, the requirements of 45CSR13 require the DAQ to, when denying a permit, explicitly state the reason pursuant to §45-13-5.7. Additionally, the permit is but the beginning of the involvement of the DAQ with a source. After issuance, the facility will receive regular inspections to determine compliance with the requirements as outlined in the applicable permit.

SPECIFIC RESPONSES TO COMMENTS

Comment #1

Today, I want to speak from a slightly more personal point of view.

I have, over the last several years submitted comments, attended the public meetings that have so graciously been scheduled for local residents to be able to speak, I have spoken and I have continued to express concerns for the diminishing air quality in my community due to all of the air quality permits that continue to be issued. I have expressed concerns regarding the issue that the permits issued are not looked at as a cumulative number of pollutants being approved to be dumped in my community.

This proposed site is projected to operate for 26 years according to Antero's corporate web page. That is 26 years of emissions from vehicles entering & leaving the site as well as emissions from the site.

WV DEP personnel have reviewed this permit and have more of a knowledge base than I regarding this...What I never see in any of the reviews are potential health impacts on the communities that these permits are issued for. I had thought this was or should be the most important factor in determining whether or not a permit is issued.

What I do know is that a person that has impaired breathing is more concerned about how much more crap are they going to be breathing in, how many more doctor visits, how many more medications will they have to take to maintain some level of life.

I also know that what I can not see or smell can hurt me.

I respectfully ask that a public meeting be held regarding this air quality permit.

Please do NOT grant this permit.

Received from: Mirijana Beram

DAQ Response

- Classifying multiple facilities as one “stationary source” under 45CSR13, 45CSR14, and 45CSR19 is based on the definition of "Building, structure, facility, or installation" as given in §45-14-2.13 and §45-19-2.12. The definition states:

“Building, Structure, Facility, or Installation” means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities are a part of the same industrial grouping if they belong to the same “Major Group” (i.e., which have the same two (2)-digit code) as described in the Standard Industrial Classification Manual, 1987 (United States Government Printing Office stock number GPO 1987 0-185-718:QL 3).

The Antero Landfill and Clearwater Treatment Facility are under common control and share the same SIC code. Therefore, the potential classification of these facilities as one

stationary source with any other facility depends on the determination if these stations are considered “contiguous or adjacent properties.”

“Contiguous or Adjacent” determinations are made on a case by case basis. These determinations are proximity based, and it is important to focus on this. The terms “contiguous” or “adjacent” are not defined by USEPA. Contiguous has a dictionary definition of being in actual contact; touching along a boundary or at a point. Adjacent has a dictionary definition of not distant; nearby; or having a common endpoint or border. The Antero Landfill and Clearwater Treatment Facility are located on contiguous or adjacent properties.

Because the facilities are considered to be on contiguous or adjacent properties, the emissions from these facilities were aggregated in determining major source or PSD status.

- In regards to vehicles entering and leaving the site, the DAQ does not have authority to regulate mobile sources. However, all particulate matter dust emissions generated by the trucks on Antero’s haul roads are regulated. The permit contains requirements for the minimization of fugitive particulate matter emissions.
- It is the public policy of this state, and the purpose of Article 5 (Air Pollution Control Act) of the West Virginia Code, to achieve and maintain such levels of air quality as will protect human health and safety, and to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state and facilitate the enjoyment of the natural attractions of this state.

The facility that Antero has proposed meets all applicable rules and regulations. These rules and regulations contain emission standards established by EPA that they believe to be protective of human health, including sensitive populations.

It is the responsibility of the DAQ to apply the rules and regulations of the State of West Virginia and EPA as they apply to air quality. If the DAQ determines that a proposed facility will comply with the Air Pollution Control Act and all applicable state and federal regulations, the DAQ must issue that facility a permit.

- 45CSR13 Section 9 outlines the procedures for holding a public meeting. This section states that a public meeting to provide information and receive comments on permit applications may be held when the Secretary deems it appropriate or when substantial interest is expressed, in writing, by persons who might reasonably be expected to be affected by the stationary source. The DAQ determined that there was not substantial interest to hold a public meeting. Therefore, no public meeting was held, however, all of the comments and questions received during the public comment period are addressed in this document.

Comment #2

Please allow the following to serve as my comments and request for a public hearing regarding planned dump.

The most obvious issue is that this permit is going to permit a certain amount of unidentified or hazardous air pollutants into the air. The fact that these pollutants (VOC's) are identified as hazardous speaks for itself. I am also troubled by the fact that the specific pollutants are not identified. What are the specific VOC's in this and all other permits allow? How many are carcinogenic?

Where did the emission data come from? Did Antero provide the data or did a disinterested third party? If you are relying on data provided solely by Antero, please advise. Given their interest in getting this dump built, it doesn't make sense to me to blindly trust the numbers provided for it's own project.

For these reasons and many others, I am asking you to deny this and any other permits connected to this site. And once again I would kindly ask for a public meeting.

Received from: Tina Del Prete

DAQ Response

- This permit does regulate two (2) 12.2-hp diesel fired light plant engines and one (1) 85-hp diesel fired emergency generator. These are the only sources of volatile organic compound (VOC) or hazardous air pollutant (HAP) emissions associated with the salt landfill. The annual VOC emissions are 0.01 tons per year and the HAP emissions are 0.0007 tons per year.

Volatile Organic Compounds is the regulated pollutant, not individual constituents. In regards to the total HAP value that was provided, the individual HAPs that make up the 0.0007 tons per year are listed in the following table:

Pollutant	Annual Emissions (tons/year)
1,3-Butadiene	0.00000723
Acetaldehyde	0.0001418
Acrolein	0.00001708
Benzene	0.0001722
Formaldehyde	0.0002187
Napthalene	0.00001569
Toluene	0.0000756
Xylenes	0.0000527

As stated in the Engineering Evaluation/Fact Sheet, the HAPs emitted by the salt landfill are negligible.

Detailed information concerning the health effects of hazardous air pollutants can be found here:

<https://www.epa.gov/haps/health-effects-notebook-hazardous-air-pollutants>

According to USEPA, hazardous air pollutants, also known as toxic air pollutants or air toxics, are those pollutants that are known or suspected to cause cancer or other serious health effects, such as reproductive effects or birth defects, or adverse environmental effects.

- Emissions associated with this application consist of particulate matter dust emissions and the combustion emissions from two (2) light plant engines (18E, 19E) and an emergency generator (20E). Fugitive particulate matter dust emissions also occur from road travel to and within the landfill, equipment travel within the landfill and grader operations. Fugitive particulate matter emissions were estimated using USEPA AP-42 emission factors. The following table indicates which methodology was used in the emissions determination:

Emission Point ID#	Process Equipment	Calculation Methodology
1E	Salt Waste Unloading in Mixing Building	EPA AP-42 Emission Factors
2E	Waste Loading at Mixing Building	EPA AP-42 Emission Factors
3E	Waste Unloading at Working Cell	EPA AP-42 Emission Factors
4E	Soil Loading at Native Stock Piles	EPA AP-42 Emission Factors
5E	Soil Unloading at Mixing Building	EPA AP-42 Emission Factors
6E	Daily Soil Cover Loading at Stock Piles	EPA AP-42 Emission Factors
7E	Daily Soil Cover Unloading at Working Cell	EPA AP-42 Emission Factors
8E	Intermediate Soil Cover Loading at Stock Piles	EPA AP-42 Emission Factors
9E	Intermediate Soil Cover Unloading at Working Cell	EPA AP-42 Emission Factors
10E	Final Soil Cover Loading at Stock Piles	EPA AP-42 Emission Factors
11E	Final Soil Cover Unloading at Working Cell	EPA AP-42 Emission Factors
12E	Daily Active Wind Erosion	EPA AP-42 Emission Factors
13E	Daily Inactive Wind Erosion	EPA AP-42 Emission Factors
14E	Stockpile Wind Erosion	EPA-450/3-88-008 "Control of Open Fugitive Dust Sources"
15E	Winter Wind Erosion	EPA AP-42 Emission Factors
16E	Cover Soil Compaction	EPA AP-42 Emission Factors
17E	Mixing Salt and Soil	EPA AP-42 Emission Factors
18E	12.2 hp Light Plant Engine 1	Manufacturer's Data, EPA AP-42 Emission Factors
19E	12.2 hp Light Plant Engine 2	Manufacturer's Data, EPA AP-42 Emission Factors
20E	85 hp Emergency Generator	Manufacturer's Data, EPA AP-42 Emission Factors

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