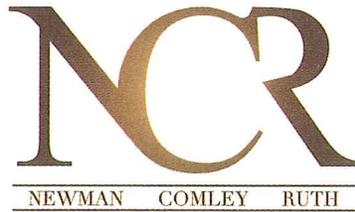


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May 9, 2016

VIA EMAIL ONLY

Missouri Department of Natural Resources
Water Protection Program
Attn: NPDES Operating Permits/Permit Comments
P.O. Box 176
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RE: April 8, 2016 Public Notice – MO-R240000 (Agchem Stormwater Permit)

To Whom It May Concern:

I am writing you on behalf of Missouri Agribusiness Association (Mo-Ag) and offer the following comments on the April 8, 2016 public notice of the Agrichemical Stormwater permit MO-R240000.

Comment No. 1: Past versions of the agrichemical permit have included the numerous agrichemical related definitions. These definitions have been deleted from the draft permit. We suggest they be reinserted into the permit for the convenience of the permit holder to understand the terms used in the permit.

Comment No. 2: Page 4, Table A-2, Benchmarks for Operational Containment Areas: The permit imposes benchmarks one year after the effective date of this permit. In order to allow sufficient time for the establishment and implementation of best management practices and sampling protocols, Mo-Ag requests that benchmark monitoring go into effect two years after the effective date of the permit. Table A-2 includes benchmarks for COD and TSS. As noted in the Fact Sheet, neither of these parameters have water quality standards. The Fact Sheet says these values are “based on other stormwater permits” and the “values fall within the range of values implemented in other permits that have similar industrial activities and the EPA’s MSGP.” The Fact Sheet does not justify these benchmark values. There was no discussion explaining how these values and other permits are similar or should be applicable to the agrichemical stormwater permit. There is also a benchmark for pH which incorporates the water quality standard. Incorporating a water quality standard benchmark at the edge of a containment area, that is far removed from waters of the state, is not appropriate. Mo-Ag is not aware of the Department having research to suggest that the pH benchmark may be met at the edge of operational containment areas. Therefore, pH should be a monitoring requirement only. Without any justification or explanation, we suggest these three benchmark values - COD, TSS and pH - be changed to monitoring only.

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Comment No. 3: Page 2, Applicability ¶ 1.: The words at the beginning of the second to last sentence “At such time . . .” should be clarified. Mo-Ag suggests deleting “At such time” and inserting “Once 10 CSR 20-8.500 is revised.”. For clarity, the last sentence should be rewritten as follows: “Discharges of process wastewater are not authorized.”

Comment No. 4: Page 2, Applicability ¶ 12.: Mo-Ag requests that “manufacturing or” be inserted in the first sentence after “fertilizer” to cover the lawful land application of rinsate from manufacturing activities.

Comment No. 5: Page 2, Applicability ¶ 13.: This sentence could be rewritten as follows: ~~This permit may not be issued to any agrichemical facility unless all~~ [S]pills of both agrichemicals in any secondary containment area or operation containment area are must be properly removed and may not be discharged.”

Comment No. 6: Page 6, Special Requirements ¶¶ 2 and 3.: We suggest paragraphs 2 and 3 be deleted because they have no relevance to this permit and attempt to inappropriately incorporate into a water permit requirements from other federal environmental laws. Compliance with these other federal environmental laws is otherwise required and should not be incorporated into the requirements of this permit. Doing so would only serve to cause confusion and duplication.

Comment No. 7: Page 6, Special Requirements ¶ 5.: The permit requires the development of a SWPPP within 90 days of the permit issuance. Since this is a new requirement and there is no guidance on how to prepare SWPPPs for these operations, Mo-Ag requests that the SWPPP be required to be developed and implemented 18 months after permit issuance.

Comment No. 8: Page 6, Special Requirements ¶ 5(a).: This paragraph says that BMPs at the facility should be designed to meet benchmark requirements during a rainfall event up to the 10-year, 24 hour rain event. Mo-Ag is not aware of any research or investigation done to correlate whether existing and known BMPs will result in meeting the benchmarks set forth in the permit, and certainly not for a rain fall event of the 10-year, 24-hour magnitude. If the Department knows of such BMPs, we recommend they be described in the Fact Sheet.

Comment No. 9: Page 6, Special Requirements ¶ 6.: Paragraph 6(a)(1) requires operational containment areas “be cleaned daily when loading, unload or mixing occurs.” If the containment is not dirty or does not have any contamination, the containment does not need to be cleaned. Therefore, we suggest this requirement be revised to require daily cleaning only when necessary.

Comment No. 10: Page 7, Special Requirements ¶ 6(f-g).: This revision requires sediment and erosion control to prevent sediment loss off the property. This permit is an agrichemical permit, not a sediment control permit. Therefore, this provision should be removed from the permit. Subparagraph (g) refers to “storage basin.” Is a storage basin a secondary containment? This is unclear.

Comment No. 11: Page 7, Special Requirement ¶ 8.: This paragraph threatens criminal prosecution for knowingly submitting false reports to the state. This provision is totally

inappropriate and the first time I have ever seen this in a NPDES permit. The permit should merely state the requirements, nothing more.

Comment No. 12: Page 7, Special Requirement ¶ 10.: The last sentence of this paragraph should be deleted in its entirety or further clarified to apply to the stormwater sample only. The permitted site should not be responsible for pollutants discharged from neighboring facilities. The last sentence of this paragraph implies that the permitted site would have a responsibility to ensure off-site neighboring properties do not pollute.

Comment No. 13: Page 7, Special Requirement ¶ 11.: Mo-Ag suggests further clarifying this paragraph to explain that permitted sites are not required to establish stormwater outfalls inside of secondary or operational containment areas from which there is no discharge. We suggest adding the following to accomplish this clarification: "Furthermore, stormwater outfalls do not need to be established inside of secondary and operational containment areas from which there is no discharge and therefore have no sampling requirements."

Comment No. 14: Page 8, Special Requirements ¶ 14(b).: The next to the last sentence of this subsection states that CAR demonstrations "must show that the benchmark is not feasible because no further pollutant reductions are technically available or economically practicable in light of best industry practices." We suggest deleting the word "available" so the sentence would only require showing that reductions are "technologically or economically practicable." It could be argued that a technology would be "available" under any circumstance if it exists. The threshold for showing that the benchmark is not feasible should be limited to practicability.

Comment No. 15: Page 8, Special Requirements ¶ 14(c).: The last sentence requires reporting no-discharge in the log of clean-up activities must be **submitted** with the report. (Emphasis added.) Instead of submitted, should this be "included"?

Comment No. 16: Page 8, Special Requirements ¶ 14(d).: This subparagraph refers to a "flow-through BMPs." What is a flow-through BMP? Should this refer to operational containment?

Comment No. 17: Fact Sheet, Page 6.: The discussion of benchmarks for phosphorus and nitrogen state that the benchmark "will be implemented". However, there is no benchmark value but monitoring requirements only. Therefore, we suggest the sentences be rewritten and combined to say that the benchmark "will not be implemented but monitoring will be required."

Thank you for the opportunity comment. Should you have any questions, please do not hesitate to contact me.

Sincerely,

By:



Robert J. Brundage
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Missouri Department of Natural Resources

May 9, 2016

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RJB:la

cc: Greg Caldwell (via email)

Steve Taylor, Missouri Agribusiness Association (via email)