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April 4, 2016

Southwest Region: Air Quality Program
Department of Environmental Protection
Commonwealth of Pennsylvania
Attention: Edward Orris, P.E., Environmental Engineer Manager
Jesse Parihar, Air Quality Engineering Specialist
400 Waterfront Drive
Pittsburgh, PA 15222-4745

Re: PA-26-00500C (Mod) Air Quality Plan Approval Modification for Alpha PA Coal Terminal, LLC

To Whom It May Concern,

The Center for Coalfield Justice respectfully submits the following comment on the Department's intent to approve an Air Quality Plan Modification ("Plan") for Alpha PA Coal Terminal, LLC ("Alpha") in Luzerne Township, PA. The relevant Pennsylvania Bulletin Notice appeared as follows:

PA-26-00500C (Mod): In accordance with 25 Pa. Code §§ 127.44—127.46, the Department of Environmental Protection (DEP) is providing notice that it intends to issue an Air Quality Plan Approval modification to **Alpha PA Coal Terminal, LLC (Alpha)** (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370) to allow Alpha (in addition to the activities authorized in PA-26-00500C) to build an alternative barge loadout system; increase the stockpile throughput to 580,000 tpy; and haul coal by truck from barge to stockpile in emergency conditions at their existing coal handling and transfer '**LaBelle Dock**' facility located at 106 East Fredericktown Road in **Luzerne Township, Fayette County**.

Emissions from coal handling facility will be controlled by applying Best Available Technology (BAT) including water sprays, enclosures and other fugitive particulate matter control measures.

Upon authorization of this plan approval, the facility potential to emit will be approximately 33.0 tons of PM, 12.0 tons of PM₁₀, and 2.0 tons of PM_{2.5} on an annual basis. This plan approval will contain throughput restrictions and monitoring, recordkeeping, reporting and work practice conditions. The throughput restriction,

monitoring, recordkeeping, reporting and work practice conditions of the Plan Approval have been derived from the applicable requirements of 25 Pa. Code Chapters 123, 127, 129, and 135.

A person may oppose the proposed plan approval by filing a written protest with the Department through Jesse Parihar via mail to Pennsylvania Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222; email to jparihar@pa.gov; or fax to 412.442.4194. Written comments may also be submitted via the same methods. Each protest or set of written comments must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Plan Approval (PA-26-00500C(Mod)), and a concise statement of the objections to the plan approval issuance and the relevant facts upon which the objections are based.

Alpha's Plan Approval application, the Department's Air Quality Review Memorandum, and the Proposed Air Quality Plan Approval for this project are available for review by any interested party at the Pennsylvania Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222. To request a review of the Alpha's Plan Approval Application, to receive an electronic copy of the Department's Air Quality Review Memorandum, or to receive an electronic copy of the Department's proposed air Quality Plan Approval for this project, a person may contact Phil Bouse at pbouse@pa.gov or 412.442.4000.

All comments must be received prior to the close of business 30 days after the date of this notice.

This comment is timely filed pursuant to 25 Pa. Code § 86.32(a). On March 5, 2016, the public notice above was published in the *Pennsylvania Bulletin*.

The Center for Coalfield Justice is a Pennsylvania-incorporated not-for-profit organization with federal § 501(c)(3) status located at 184 S. Main Street, Washington, PA 15301. CCJ is a membership organization with a mission to “improve policy and regulations for the oversight of fossil fuel extraction and use; to educate, empower and organize coalfield citizens; and to protect public and environmental health.” The Center for Coalfield Justice has nearly two thousand members and supporters in Greene, Washington and Fayette counties and we have been working with a group of residents of Labelle in Luzerne Township to address the numerous, detrimental environmental issues in their community.

I. There is inadequate demonstration that the proposed dust suppression technology is the best available.

Section 127.12(a)(5) requires that the projected emissions be the minimum attainable using the Best Available Technology (“BAT”). 25 Pa Code § 127.12(a)(5). BAT is defined in

Section 121.1 as “equipment, devices, methods, or techniques as determined by the Department which will prevent, reduce or control emissions of air contaminants to the maximum degree possible and which are available or may be made available.” 25 Pa. Code § 121.1. The Applicant’s BAT analysis is inadequate.

First, as to the coal storage operations, the Applicant proposes to employ Rainbird Water Sprays. According to the Application, Rainbird Water Sprays are a permanently sounded water spray system that “spray up, out, and across the storage pile and will be designed to suppress fugitive dust from the entire coal storage area.” However, the Applicant then explains that it will “maintain availability to a water truck with pressurized spray fun” to accommodate stockpile areas that cannot be reached by the Rainbird Water Sprays. See Application at C.3 – 2. The Applicant provides no explanation as to why the Rainbird Water Sprays cannot be designed to actually suppress fugitive dust from the *entire* coal storage area. Moreover, it is unclear what is meant by “maintain availability to a water truck.” To the extent that the Rainbird Water Sprays cannot be designed to suppress fugitive dust from the entire coal storage area, the Department should require the Applicant to keep a water truck onsite especially given the proposed monitoring plan. If the Applicant is required to wait some number of hours or days for a water truck to treat the stockpile area that cannot be reached by the Rainbird Water Sprays, it is likely that visible fugitive particulate matter will leave the permit area in violation of 25 Pa. Code § 123.2.

Second, there is no discussion of other available equipment, devices, methods, or techniques to reduce or prevent particulate matter emissions. 25 Pa. Code § 127.12(a)(5). It is not sufficient that some or all of the dust control techniques happen to be employed; instead, the best available technology must be employed to prevent particulate matter emissions or, if preventing all particulate matter emissions is not feasible, the best available technology must be employed to reduce emissions to the maximum extent possible. 25 Pa. Code § 127.12(a)(5). It is impossible to know whether the equipment, devices, methods of techniques proposed by the Applicant is the best available without knowing what other control technologies are or could be available for use at this site.

Third, as to the transfer operations, the Applicant provides no justification or explanation for employing only partially enclosed outside conveyors. Section 127.12(a)(5) requires the Applicant to employ the *best available* technology. 25 Pa Code § 127.12(a)(5). While partially enclosed outside conveyors may reduce particulate matter emissions, Section 127.12(a)(5) requires the Applicant to employ technology that will prevent particulate matter emissions whenever possible. The Application does not contain any explanation for why fully enclosed outside conveyors are not possible.

Fourth, the Applicant indicates that truck tarping will not be employed as a control measure because “it has historically been found to be not beneficial in hauling limited quantities of high moisture coal over short distances, at short speeds, and exclusively onsite.” See Application at C.3 – 4. The Applicant does not provide any support for its conclusion that using tarps when transporting coal by truck is not beneficial. Especially since using a tarp is clearly an inexpensive technology that is available or could easily be made available here, the Department should require the Applicant to use a tarp when transporting coal by truck.

The Applicant’s BAT analysis required by 25 Pa Code § 127.12(a)(5) is inadequate and must be revised. If it is not revised, the Department should deny the Plan Modification. Should the Applicant decide to make the necessary revisions, due to the scope and significance of the necessary revisions, the Department should open the revised application and proposed Plan Modification to a new public comment period.

II. The Proposed Plan Modification fails to require adequate monitoring to assure compliance with the applicable air quality laws.

The proposed Plan Modification fails to require monitoring of particulate matter emissions adequate to assure compliance with the applicable particulate matter emissions limits. The Application explains: “Fugitive particulate emissions to be monitoring through ongoing informal visible emissions surveillance during intervals when the facility is operations, employing supplemental control measures (as facility water truck) as and where necessary. See attachment C.” Application at Section B, pg. 4. This is inadequate.

First, the Applicant has not described how it will regularly determine whether or not water is needed to control fugitive particulate matter emissions. Without such information, the Department cannot possibly evaluate whether the plan to control fugitive emissions will comply with the applicable air quality laws.

Second, the Department cannot simply wait and see whether or not the Applicant's proposed visual monitoring is sufficient to prevent visible particulate matter from leaving the permit area. 25 Pa. Code § 123.2. In order to assess the sufficiency of the Plan's enforcement mechanism, we need only to turn to MCC's LaBelle Site nearby to see that visible emissions standards enforcement for fugitive dust are woefully inadequate. Additionally, it appears to be difficult for the Department to catch a violation in progress and issue a notice of violation when charged with enforcing visible emissions standards alone.

The current State Only Operating Permit for Air Quality at the MCC LaBelle Site sets out a broad range of activities that are permitted to create fugitive emissions¹ and the only limit on fugitive particulate matter is "A person may not permit fugitive particulate matter to be emitted into the outdoor atmosphere from a source specified in 123.1(a)(1)-(9) [citation to the previous section detailing permitted activities] if such emissions are visible at the point the emissions pass outside the person's property."² In other words, the only restriction on fugitive dust emissions at the site is visible emissions that pass MCC's property line. Accordingly, it comes as no surprise that MCC has never had a violation assessed under this air quality permit. Granted, the site is not currently accepting more coal ash as it is waiting for the First Energy contract to potentially go into effect and begin accepting fly ash and scrubber sludge in 2017. However, residents of LaBelle will tell you that dust still blows off the site, as evidenced by the accumulation of fine black dust on their homes, vehicles and

¹ Construction or demolition of building or structures, grading, paving, and maintenance of roads and streets, use of roads and streets, clearing of land, stockpiling of materials, open burning operations, and other sources for which the operator has obtained a determination from DEP that fugitive emissions from the source, after appropriate control, meet the following requirements: (i) the emissions are of minor significance with respect to causing air pollution; and (ii) the emissions are not preventing or interfering with the attainment or maintenance of any ambient air quality. See Section C "Site Level Requirements" #002 of Matt Canestrone Contracting Inc. State Only Operating Permit No. 26-0057 for Plant Code 25-1288759-1, effective June 24, 2014-June 24, 2019.

² Section C "Site Level Requirements" #003 Matt Canestrone Contracting Inc. State Only Operating Permit No. 26-0057 for Plant Code 25-1288759-1, effective June 24, 2014-June 24, 2019.

anything outdoors which has continued even though new ash is not being dumped at the site currently.³

Review of the history of violations at the site reveals that most violations relate to water quality and safety issues, like discharging water that does not meet water quality limits and failure to properly design, construct or maintain sedimentation ponds. There is a history of air quality violations at the site as well, but notably only eight violations over thirteen years and it appears that PA DEP has never assessed monetary penalties for these violations; they were all resolved by being “corrected” by the operator.⁴ Yet, we have heard from local residents that they have called DEP numerous times over the years to report visible emissions coming off the site and DEP only follows up by showing up to the site occasionally and even then, very rarely ends up citing MCC for a violation.

Only by continuously monitoring particulate matter emissions from proposed permit area will the Department be able to assure that the Plant is in compliance with applicable particulate limits. *See* 25 Pa. Code §§ 123.1, 123.2, 123.41. The Department should adopt meaningful enforcement guidelines to protect nearby communities from emissions by setting air quality limits enforced by air monitors set up around the site, rather than relying on Alpha or community members to report visible emissions. *See* 25 Pa. Code § 123.2. Even this small step of using air monitors will fail to take into account the impact on water quality

³ Department of Environmental Protection eFacts page for LaBelle Site, available at: http://www.ahs.dep.pa.gov/eFACTSWeb/searchResults_singleSite.aspx?SiteID=465372

⁴ Failure to employ adequate air pollution controls. 10/22/2013: http://www.ahs.dep.pa.gov/eFACTSWeb/searchResults_singleViol.aspx?InspectionID=2216755
Fugitive Emissions, Prohibition of certain fugitive emissions. Failure to take reasonable actions to prevent particulate matter from becoming airborne. 08/05/2013: http://www.ahs.dep.pa.gov/eFACTSWeb/searchResults_singleViol.aspx?InspectionID=2195856
Failure to employ adequate air pollution controls. 04/01/2011: http://www.ahs.dep.pa.gov/eFACTSWeb/searchResults_singleViol.aspx?InspectionID=1962399
Fugitive Emissions, Prohibition of certain fugitive emissions. Failure to take reasonable actions to prevent particulate matter from becoming airborne. 01/05/2011: http://www.ahs.dep.pa.gov/eFACTSWeb/searchResults_singleViol.aspx?InspectionID=1941071
Fugitive Emissions, Prohibition of certain fugitive emissions. Failure to take reasonable actions to prevent particulate matter from becoming airborne. 04/06/2005. 03/23/2005. 02/18/2004. 04/24/2003. http://www.ahs.dep.pa.gov/eFACTSWeb/searchResults_singleViol.aspx?InspectionID=1436955
http://www.ahs.dep.pa.gov/eFACTSWeb/searchResults_singleViol.aspx?InspectionID=1435893
http://www.ahs.dep.pa.gov/eFACTSWeb/searchResults_singleViol.aspx?InspectionID=1309491
http://www.ahs.dep.pa.gov/eFACTSWeb/searchResults_singleViol.aspx?InspectionID=1229745

of dust which will blow from the site into the Monongahela River next to Alpha's LaBelle Dock facility. At the very least, the Proposed Plan Modification should be revised to mandate continuous air monitoring.

III. There are significant health issues associated with particulate matter emissions and there are already serious environmental issues in the LaBelle community.

The lack of meaningful pollution control and monitoring in the proposed Plan Modification is even more startling after considering the health impacts of particulate matter pollution and the heavy environmental burden that already weighs on residents of LaBelle. Here, "[u]pon authorization of this plan approval, the facility potential to emit will be approximately 33.0 tons of PM, 12.0 tons of PM₁₀, and 2.0 tons of PM_{2.5} on an annual basis."

Both PM₁₀ and PM_{2.5} include inhalable particles that are small enough to penetrate the thoracic region of the respiratory system and the health effects of inhalable Particulate Matter are well documented. Due to exposure over both the short term (hours, days) and long term (months, years) such health effects include:

- Respiratory and cardiovascular morbidity, such as aggravation of asthma, respiratory symptoms and an increase in hospital admissions;
- Mortality from cardiovascular and respiratory diseases and from lung cancer.⁵

It is critical to emphasize that, "There is no evidence of a safe level of exposure or a threshold below which no adverse health effects occur."⁶ Since these are air pollutants, exposure is involuntary for people living near the emission source. Susceptible groups with pre-existing lung or heart disease, as well as elderly people and children, are particularly vulnerable. For example, exposure to PM affects lung development in children, including reversible deficits in lung function as well as chronically reduced lung growth rate and a deficit in long-term lung function.⁷ There is good evidence of the effects of short-term

⁵ http://www.euro.who.int/_data/assets/pdf_file/0006/189051/Health-effects-of-particulate-matter-final-Eng.pdf

⁶ *Id.*

⁷ *Id.*

exposure to PM₁₀ on respiratory health, but for mortality, and especially as a consequence of long-term exposure, PM_{2.5} is a stronger risk factor because the particles are smaller (particularly those in the 2.5–10 µm range).⁸

LaBelle, located in Luzerne Township, Fayette County, Pennsylvania, is a small community of approximately 200 people next to the Monongahela River. LaBelle was formerly a coal-mining town that is now almost completely surrounded by about 40 million tons of waste, two coal slurry ponds, and millions of cubic yards of coal ash spanning about 500 acres. State Correctional Institute Fayette is also located proximate to the waste disposal site which is operated by Matt Canestrone Contracting, Inc (“MCC”). For the last several decades, the LaBelle site has been in a perpetual state of “closing” without actually nearing any point of final close. MCC has been operating the LaBelle Site under the CO&A for almost 20 years without any demonstrable signs of progress in reclaiming the site. Indeed, all appearances suggest that MCC is no longer operating LaBelle for the purpose of reclamation, but rather for the highly profitable endeavor of running a coal combustion waste disposal site.⁹

The people living in LaBelle have spent years watching wildlife disappear from the area, have experienced consistent issues with water quality, have suffered numerous serious health issues all while the pile of coal ash grows taller and taller. This is a community that is exhausted from seeking answers to why nothing is being done to actually close the MCC LaBelle Site and address all of the pollution of air, water, and soil in their town. This is a community that has borne far more than its fair share of environmental degradation and harm. As a fine black dust covers their homes, cars, and yards, and invisibly settles into people’s bodies, this is a community that is being destroyed by air pollution. Now, the Department is ready to grant approval for another source of air pollution in this community.

⁸ *Id.*

⁹ The CO&A was entered into on April 14, 1997 and charges MCC with the reclamation of the LaBelle Site, outlining the duties and responsibilities of MCC in undertaking this reclamation and eventual abandonment and closing of the LaBelle Site. *See* CO&A at 8, Paragraph X. i., “MCC agreed to fully reclaim all portions of the permitted Prep Plant and CRDA facilities in accordance with the terms of any permits subsequently issued to MCC regarding the subject property and an approved corrective action plan for those portions of the subject properties which MCC does not seek to permit.”

The Department needs to look no further than the numerous articles written about the struggles of people in LaBelle and SCI Fayette¹⁰ to see that adding another source of air pollution to this area needs to be subject to the highest scrutiny and an cumulative impact analysis which takes into account all of the legacy, current, and anticipated sources of air pollution.

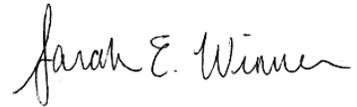
One longtime LaBelle resident, Sonny Markish, recently made a statement in an interview summarizes the way that many people in LaBelle feel about the coal ash site, why it was put in their community, and why there has been so little enforcement action and efforts to actually remediate and close the site. “We are a small community and that is why we were chosen for the fly ash. We don’t have \$500,000 homes, and no one here is independently wealthy. So they just shit all over us and get away with it.”¹¹

¹⁰ See Biegelsen, Amy “Dispute in Pennsylvania town highlights EPA’s coal ash dilemma.” Center for Public Integrity. December 3, 2010, available at: <http://www.publicintegrity.org/2010/12/03/2273/dispute-pennsylvania-town-highlights-epas-coal-ash-dilemma>; Hopey, Don “Tiny La Belle plans big fight against more coal ash dumping.” Pittsburgh Post Gazette. January 11, 2016, available at: <http://powersource.post-gazette.com/powersource/consumers-powersource/2016/01/11/Tiny-La-Belle-plans-big-fight-against-more-coal-ash-dumping/stories/201601110012>; Castle Miller, Joanna “What’s Killing LaBelle, PA?” The Marginalized. November 3, 2010, available at: <http://themarginalized.com/2010/11/03/whats-killing-labelle-pa/>; Morgan, Rachel “W. Pa. residents worry about coal ash impacts.” Contra Costa Times. August 9, 2013, available at: http://www.contracostatimes.com/ci_23830207/w-pa-residents-worry-about-coal-ash-impacts; Castle Miller, Joanna “What’s Killing LaBelle, PA?” The Marginalized. November 3, 2010, available at: <http://themarginalized.com/2010/11/03/whats-killing-labelle-pa/>; Kahn, Natasha and Frazier, Reid R. “Two men. One coal ash dump. No answers.” Public Source and The Allegheny Front. June 26, 2015, available at: http://publicsource.org/investigations/two-men-one-coal-ash-dump-no-answers#.Vt2L_owrJz9; Markowitz, Eric “Poison Prison: Is toxic dust sickening inmates locked up in coal country?” International Business Times. July 2, 2015, available at: <http://atavist.ibtimes.com/poison-prisonj653t>; Rakia, Raven “Coal Ash May Be Making Pennsylvania Inmates Sick, and Now They’re Fighting to Shut Their Prison Down.” VICE. May 5, 2015, available at: <http://www.vice.com/read/ashes-to-ashes-0000651-v22n5>; Hopey, Don “Groups say fly ash near state prison in Fayette County causing health problems.” Pittsburgh Post Gazette. September 2, 2014, available at: <http://www.post-gazette.com/news/health/2014/09/02/Groups-say-fly-ash-near-state-prison-in-Fayette-County-leads-to-health-problems/stories/201409020040>

¹¹ Williams, Kevin “‘Poisonous Lands’: Pennsylvania prison built next to toxic dump.” Aljazeera America. February 25, 2016, available at: <http://america.aljazeera.com/articles/2016/2/25/prison-pennsylvania-toxic-dump.html>

Thank you for the opportunity to provide these comments.

Respectfully,

A handwritten signature in cursive script that reads "Sarah E. Winner".

Sarah Winner, Esq.
Staff Attorney

A handwritten signature in cursive script that reads "Caitlin McCoy".

Caitlin McCoy, Esq.
Legal Director