UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8
1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
http://www.epa.gov/region08

Ref: 8P-AR

December 2, 2013

Daniel Holli
Environmental and Regulatory Compliance Specialist
Van Hook Crude Terminal, LLC
P.O. Box 708
Belfield, ND 58622

Re: Van Hook Crude Terminal, LLC (VHCT)
Van Hook Crude Terminal/Rail Loading Facility
Permit #SMNSR-TAT-000044-2012.001
Administrative Permit Revision

Dear Mr. Holli:

The Environmental Protection Agency, Region 8 (EPA) has completed its review of VHCT's request to obtain revisions to permit #SMNSR-TAT-000044-2012.001, issued on August 2, 2012. The original permit approved the construction of the Van Hook Crude Terminal/Rail Loading Facility pursuant to the Tribal New Source Review Permit Program at 40 CFR Part 49 (MNSR). The permit limited the facility-wide volatile organic compound (VOC) emissions to 92 tons per year (tpy), through equipment specifications, VOC emission controls, and product throughput.

On November 1, 2013, VHCT requested revisions to the final permit to correct an error with regard to the type of control device required on each of five (5) floating roof tanks. The permit incorrectly specified the requirement to use mechanical shoe rims seals. However, the intent of the permit was to provide flexibility in the type of rim seals required. The EPA has changed the control requirement to the generic rim seal system. In addition, VHCT requested the approval to construct four (4) additional railcar loadings stations resulting in 13 stations in total. Due to the increased number of railcar loading stations, there will be an increase in emissions of nitrogen dioxides (NO_X), carbon monoxide (CO), and VOCs. However, the increases are less than the Prevention of Significant Determination Permitting Program at 40 CFR Part 52 (PSD) permitting thresholds and the controlled VOC emissions will remain below the VOC emission limit of 92 tpy. All other requirements in the permit are to be unchanged.

Pursuant to the MNSR regulations at §49.159(f), the correction of errors and changes to the approved construction that are not otherwise subject to review under the PSD or MNSR may be obtained through an administrative permit revision. According to the MNSR regulations at §49.159(f)(2), an administrative permit revision is not subject to the permit application, issuance, public participation, or administrative and judicial review requirements of the program.

Based on the information submitted in your application, the EPA hereby issues the revised permit to construct. The effective date of this permit is December 2, 2013.

If you have any questions concerning the enclosed permit, please contact Kathleen Paser of my staff at (303) 312-6526.

Sincerely,

Howard M. Cantor, for
Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance

Enclosure

cc:
Edmund Baker, Environmental Director, Three Affiliated Tribes
Carson Hood, Acting Administrator, Three Affiliated Tribes

United States Environmental Protection Agency
Region 8 Air Program
1595 Wynkoop Street
Denver, CO 80202

Air Pollution Control
Synthetic Minor Source Permit to Construct

40 CFR 49.151

#SMNSR-TAT-000044-2012.001

Synthetic Minor Permit to Construct to establish a legally and practically enforceable facility-wide volatile organic compound (VOC) emission limit.

Permittee:

Van Hook Crude Terminal, LLC (VHCT)

Permitted Facility:

Van Hook Crude Terminal/Rail Loading Facility

Fort Berthold Indian Reservation
Mountrail County, North Dakota

Effective:

September 1, 2012

Administrative Amendment

December 2, 2013

Summary of Administrative Amendment

On November 1, 2013, VHCT requested revisions to the final permit to correct an error with regard to the type of control device required on each of five (5) floating roof tanks. The permit incorrectly specified the requirement to use mechanical shoe rims seals. However, the intent of the permit was to provide flexibility in the type of rim seals required. The EPA has changed the control requirement to the generic, "rim seal system." In addition, VHCT requested the approval to construct two (2) additional railcar loadings stations resulting in 11 stations in total. All other requirements in the permit are unchanged. Due to the increased number of railcar loading stations and additional load on the combustion control, there is an increase in emissions of nitrogen dioxides (NO_X), carbon monoxide (CO), and VOCs. However, the increases are less than the PSD permitting thresholds and the controlled VOC emissions remain below the VOC emission limit of 92 tpy.

The potential emissions are as follows:

VOC: 88.6 tpy CO: 54.4 tpy NO_X: 25.7 tpy SO_2: 0.32 tpy PM_{10}: 0.22

Pursuant to the MNSR regulations at §49.159(f), the correction of errors and changes to the approved construction that are not otherwise subject to review under the Prevention of Significant Determination Permitting Program at 40 CFR Part 52 (PSD) or the Tribal Minor New Source Review Permit Program at 40 CFR Part 49 (MNSR) may be obtained through an administrative permit revision. According to the MNSR regulations at §49.159(f)(2), an administrative permit revision is not subject to the permit application, issuance, public participation, or administrative and judicial review requirements of the program.

Pursuant to 40 CFR 49.159(f), the EPA approved this request as an administrative amendment.

Summary of Initial Construction Approval

On September 1, 2012, VHCT was given final approval to construct a crude oil trans-loading facility with crude oil storage tanks, truck-to-tank off loading stations (truck load-out stations), tank-to-railcar loading stations (railcar loading stations), and a total annual throughput limit of 31,025,000 barrels.

Permit number:
SMNSR-TAT-000044-2012.001

Based on the uncontrolled emission estimates, the approved facility would have been subject to the Prevention of Significant Deterioration Permit Program at 40 CFR Part 52 (PSD). The applicant requested emission limitations that would limit the facility-wide emissions of VOCs to levels below the thresholds that would have required them to obtain a PSD permit.

Potential uncontrolled emissions of VOC from the facility were estimated to be 4,007 tons per year (tpy). The final permit requires the installation of controls with a 98% VOC destruction efficiency, and a limit on the volume of crude oil that can be loaded at the facility in any given year to minimize VOC emissions. Only limits for VOC emissions have been addressed in the permit. The approved final permit has an allowable VOC emission level of 92 tpy.

Table of Contents

I. Conditional Permit to Construct

A. General Information

Facility:	Van Hook Rail Terminal
Permit Number:	SMNSR-TAT-000044-2012.001
SIC Code and SIC Description:	5171 – Petroleum Bulk Stations and Terminals

Site Location:
Van Hook Crude Terminal/Rail Loading Facility
NW ¼ SW ¼ Sec 20 T152N R91W
Fort Berthold Indian Reservation
Mountrail County, ND

Corporate Office Location
Van Hook Crude Terminal, LLC (VHCT)
9590 New Decade Drive
Pasadena, Texas 77507

The equipment listed in this permit shall be operated by VHCT at the following location:

Latitude 47.968056N, Longitude -102.363889W

B. Construction

This permit approves the construction and operation of a crude oil trans-loading facility. The facility will include five (5) crude oil storage tanks (two 6,000 barrel crude oil storage tanks and three 95,000 barrel crude oil storage tanks), eight (8) truck loadout stations, and 11 railcar loading stations. The crude oil storage tanks will be equipped with internal floating roofs and rim seals for control of VOC emissions. The truck loadout stations will use submerged filling arms and piping to the tanks. The tanks will act as intermediate storage between the trucks or pipelines that will deliver the crude oil to the facility and the railcars that will transport the crude oil to its final destination. Occasional direct loading from trucks to railcars may occur, thus bypassing and avoiding emissions associated with the tanks. The Permittee will use a vapor collection system and a combustor with a 98% VOC destruction efficiency for the control of VOCs displaced during loading of crude oil into railcars. VHCT will also construct and operate a 1,490 brake horse power (hp) diesel-fired emergency generator to provide electrical power in the event of a power outage.

C. Applicability

1. This Federal Permit to Construct is being issued under the authority of the Tribal Minor New Source Review Program at 40 CFR Part 49 (MNSR).

2. The requirements in this permit have been created, at the Permittee's request, to establish legally and practically enforceable restriction on VOC emissions.

4. Any conditions established for this facility or any specific units at this facility pursuant to any Conditional Permit to Construct issued under the authority of PSD or MNSR shall continue to apply.

5. By issuing this permit, the EPA does not assume any risk of loss which may occur as a result of the operation of the permitted facility by the Permittee, owner, and/or operator, if the conditions of this permit are not met by the Permittee, owner, and/or operator.

D. Facility-Wide Emission Requirements

1. Facility-wide Emission Limit

Facility-wide VOC emissions shall not exceed 92 tons during any consecutive 12 months.

2. Work Practice and Operational Requirements

(a) Total volume of crude oil loaded to the railcars shall not exceed 31,025,000 barrels in any given consecutive 12-month period (average of 85,000 barrels per day).

(b) All liquid and gas collection, storage, and handling operations, regardless of size, shall be designed, operated and maintained so as to minimize leakage of hydrocarbons to the atmosphere.

3. Monitoring Requirements – VOC Emissions Calculations

(a) Total volume of crude oil transferred to the railcars shall be measured as specified in the **Requirements for Railcar Loading** section of this permit.

(b) Facility-wide actual VOC emissions shall be calculated, in tons, and recorded at the end of each month, beginning with the first calendar month that operations commence.

(c) Prior to 12 full months of facility-wide VOC emissions calculations, the Permittee shall, at the end of each month, add the emissions for that month to the calculated emissions for all previous months since production commenced and record the total. Thereafter, the Permittee shall, at the end of each month, add the emissions for that month to the calculated emissions for the preceding 11 months and record a new 12 month total.

(d) VOC emissions from all controlled and uncontrolled emission sources at the facility shall be included in the monthly calculation, including, but not limited to: crude oil storage tanks, truck load out operations, rail loading operations, engines, enclosed combustion devices, and equipment leaks.

(e) VOC emissions shall be calculated as specified in this permit.

4. Testing Requirements

The Permittee shall conduct semiannual extended laboratory analysis of the crude oil received at the facility to obtain an actual Reid vapor pressure (RVP) to be used in calculating monthly VOC emissions from the truck load out and railcar loading and vapor combustion processes.

5. Recordkeeping Requirements

The Permittee shall maintain the following records:

(a) The actual rolling monthly facility-wide VOC total emissions, in tpy;

(b) Daily total volume of crude oil transferred to the railcars;

(c) The results of each extended laboratory analysis of the crude oil received at the facility;

(d) All input parameters and methodologies used to calculate the facility-wide monthly VOC emissions; and

(e) All deviations from the requirements of this permit.

E. Requirements for Minimizing Fugitive Dust

1. Work Practice and Operational Requirements

(a) The Permittee shall take all reasonable precautions to prevent fugitive dust emissions and shall construct, maintain, and operate the facility to minimize fugitive dust emissions. Reasonable precautions include, but are not limited to the following:

(i) Use, where possible, water or chemicals for control of dust during construction and operations, grading of roads, or clearing of land;

(ii) Application of asphalt, water, or other suitable chemicals on unpaved roads, materials stockpiles, and other surfaces that can create airborne dust;

(iii) The prompt removal from paved streets of earth or other material that does or may become airborne; and

(iv) Restricting vehicle speeds at the facility.

(b) The Permittee shall prepare and implement a written fugitive dust emission prevention plan that specifies the reasonable precautions to be taken and the procedures to be followed to prevent fugitive dust emissions.

2. Monitoring Requirements

(a) The Permittee shall periodically survey the facility during construction and operation to determine if there are obvious visible dust plumes. This survey must be done once per week, at a minimum, in all active areas and during daylight hours.

(b) The Permittee shall document the results of the survey, including the date and time of the survey, identification of the cause of any visible dust plumes found, and the reasonable precautions taken to prevent fugitive dust emissions.

3. Recordkeeping Requirements

The permittee shall maintain records for 5 years that document the fugitive dust prevention plan, the periodic surveys and the reasonable precautions that were taken to prevent fugitive dust emissions.

F. Requirements for Truck Load-Out Stations and Crude Oil Storage Tanks

1. Work Practice and Operational Requirements

(a) The Permittee shall install and operate no more than eight (8) truck load-out stations. Each station shall be designed for submerged loading of crude oil to the storage tanks.

(b) The Permittee shall install, operate and maintain the following crude oil storage tanks designed with internal floating roofs and rim seal systems:

(i) Two 6,000 barrel tanks; and
(ii) Three 95,000 barrel tanks.

2. Monitoring and Testing Requirements

(a) The Permittee shall visually inspect the internal floating roof, the seal system, and any other gaskets, slotted membranes, and sleeve seals, prior to initial filling of each storage tank with crude oil, at least once every 12 months after initial fill, and each time the storage tank is emptied and degassed.

(b) The Permittee shall repair the items before filling or refilling the storage tank with crude oil if one or more of the following are observed:

(i) If the internal floating roof is not resting on the surface of the crude oil inside the storage tank;
(ii) There is liquid accumulated on the roof;
(iii) The seal is detached, or there are holes, tears, or other openings in the primary or secondary seal or seal fabric;
(iv) The gaskets no longer close off the liquid surfaces from the atmosphere; or
(v) The slotted membrane has more than 10% open area.

(c) VOC emissions from crude oil storage tanks at the facility due to standing, working and breathing losses for each calendar month shall be calculated using the most current version of the EPA TANKS program and the following:

(i) Total measured volume of crude oil transferred to railcars for the month, in barrels; and
(ii) Molecular weight of vapors, pounds per pound-mole (lbs/lb-mole) of **50 lbs/lb-mole** from North Dakota Department of Health (NDDH) estimate for Bakken Formation crude oil.

[Note to Permittee: EPA TANKS can be found online at http://www.epa.gov/ttnchie1/software/tanks/index.html.]

3. Recordkeeping Requirements

(a) The Permittee shall document and maintain a record of each storage tank inspection and any repairs.

(b) All storage tank inspection records shall include, at a minimum, the following information:

(i) The date of the inspection;
(ii) All documentation and/or images produced in the inspection;
(iii) The findings of the inspection;
(iv) Any corrective action taken; and
(v) The inspector's name and signature.

G. Requirements for Railcar Loading Stations

1. Work Practice and Operational Requirements

(a) Crude oil at the facility shall be loaded into railcars using no more than 13 railcar loading stations equipped with enclosed vapor collection systems.

(b) All VOC emissions from the railcar loading stations at the facility shall be continuously controlled using an enclosed vapor collection system that routes vapors to an enclosed combustion device designed and operated to reduce the mass content of VOC emissions vented to the device by at least 98%.

(c) All piping connections, fittings, valves, or any other appurtenance employed to contain and collect vapors and transport them to the enclosed combustion device shall be designed to operate under negative pressure (suction) using a blower fan, maintained in a leak-free condition and connected and operating at all times a railcar loading event is occurring.

(d) The enclosed combustion device shall be:

(i) Designed to have sufficient capacity to achieve at least a 98% destruction efficiency for the minimum and maximum hydrocarbon mass flow routed to the device;
(ii) Equipped with an automatic ignition system or continuous burning pilot;
(iii) Equipped with a thermocouple, or similar temperature sensing device, to detect the presence of a pilot flame;
(iv) Equipped with a continuous recording device, such as a chart recorder or similar device, to document the presence of a flame;
(v) Maintained in a leak-free condition; and
(vi) Designed to minimize visible smoke emissions.

(e) The Permittee shall follow the manufacturer's written operating instructions, procedures and maintenance schedule for the enclosed combustion device and enclosed vapor collection system, to ensure good air pollution control practices for minimizing emissions.

(f) Control devices other than those listed above that are capable of achieving a control efficiency at least equivalent to that specified in this permit may be utilized upon EPA approval.

2. Testing and Monitoring Requirements

(a) The Permittee shall measure the barrels of crude oil loaded into railcars from the crude oil storage tanks using volumetric flow meters.

(b) Within 180 days after initial startup, during a railcar loading event, the Permittee shall conduct a VOC emissions test of the enclosed combustor to which emissions from the combined railcar loading stations are routed, to demonstrate 98% destruction efficiency. Emissions testing shall be conducted in accordance with EPA Reference Method 25A, listed in 40 CFR Part 60, Appendix A. The Permittee may submit a written request to the EPA for an alternate testing method, but shall only use that test method upon receipt of written approval by the EPA.

(c) Within 180 days after initial start-up and every five (5) years thereafter, the Permittee shall verify the destruction efficiency of the VOC control equipment using EPA approved test methods.

(d) Within 180 days after initial start-up, and every five (5) years thereafter, during a railcar loading event, the Permittee shall conduct a test of the closed-vent system to demonstrate that it is operating under negative pressure. Testing shall be conducted in accordance with EPA Reference Method 21, listed in 40 CFR Part 60, Appendix A. The Permittee may submit a written request to the EPA for an alternative testing method, but shall only use that test method upon receipt of written approval by the EPA.

(e) The Permittee shall monitor the enclosed vapor collection system during all railcar loading events, to confirm proper operation as follows:

(i) Continuously ensure that the blower fan is operating at all times a rail loading event is occurring using vacuum pressure measurement upstream of the blower fan; and
(ii) In the event that the blower fan is not operational, immediately shut down all loading operations and repair the blower fan. Loading operations shall not resume until the blower fan is repaired and operational.

(f) The Permittee shall monitor the control device to confirm proper operation as follows:

(i) Continuously monitor the pilot flame using a thermocouple and recording device that indicates the continuous ignition of the pilot flame at all times the enclosed combustion device is operating;
(ii) Check the recording device to insure proper operation once per day;
(iii) Check the pilot flame to insure proper operation once per day; and
(iv) Correct a pilot flame failure when notified by the malfunction alarm, as soon as possible, but no longer than five (5) days from the day of the notification.

(g) VOC emissions from railcar loading for each calendar month shall be calculated using the methodology described in the most current version of EPA AP-42 – Compilation of Air Pollutant Emission Factors, Volume 1: Stationary Point and Area Sources, Section 5.2 Transportation and Marketing of Petroleum Liquids (for loading losses), and using the following:

(i) Total measured volume of crude oil produced for the month (bbl);
(ii) Molecular weight of vapors, pounds per pound-mole (lbs/lb-mole) of **50 lbs/lb-mole** from NDDH estimate for Bakken Formation crude oil;
(iii) The hours that VOC emissions from railcar loading were routed to the enclosed combustion device – assume **24 hours per day** for each day of the month; and
(iv) The destruction efficiency of the enclosed combustion device determined as required by this permit.

3. Recordkeeping Requirements

(a) Records shall be kept of the total barrels of oil transferred to the railcars each day.

(b) Records shall be kept of the site specific design input parameters provided by an independent engineering analysis, or the manufacturer or vendor, and used to properly size the enclosed combustor to assure the 98% VOC reduction requirement in this permit. The permittee has selected maximum total liquid flow rate to the railcars as the design input parameter.

(c) Records shall be kept of all exceedances of the maximum volumetric flow rate of crude oil to transfer to the railcars as specified in this permit. The records shall include the enclosed combustor's total operating time during the calendar month in which the exceedance occurred, the date, time and length of time that the parameters were exceeded, and the corrective actions taken or the preventative measures adopted to operate the facility within that operating parameter.

(d) Records shall be kept of any instances in which the blower fan on the vapor collection system malfunctions while a rail loading event is occurring, the date of the malfunction, and the amount of time that the rail loading event continued before being shut down for blower fan repairs.

(e) Records shall be kept of any instances in which the enclosed combustion device was bypassed or down in each calendar month while crude oil was being loaded onto railcars, the reason for each incident, its duration, and the corrective actions taken or the preventative measures adopted to avoid such bypasses or downtimes.

(f) Records shall be kept of any instances in which the pilot flame is not present in the enclosed combustor while it is operating, the date and times that the pilot was not present and the corrective actions taken or the preventative measures adopted to increase the operating time of the pilot flame.

(g) Records shall be kept of any instances in which the thermocouple installed to detect the presence of a flame in the enclosed combustor is not operational while the enclosed combustor is operating, the time period during which it was not operational, and the corrective measures taken.

(h) Records shall be kept of all required testing and monitoring. The records shall include the following:

(i) The date, place, and time of observations, sampling or measurements;
(ii) The date(s) analyses were performed;

(iii) The companies or entities that performed observations and the analyses;
(iv) The analytical techniques or methods used;
(v) The results of such analyses or measurements; and
(vi) The operating conditions as existing at the time of sampling or measurement.

H. Requirements For Diesel Fired Emergency Generator Engine

1. The Permittee shall install no more than one (1) diesel-fired compression ignition internal combustion engine with a site rated horse power of no more than 1,490 hp to be used for electricity generation until utility power is available.

2. The Permittee shall only install an engine compliant with the Tier 2 New Source Performance Standards for Compression Ignition Internal Combustion engines found at 40 CFR Part 60, Subpart IIII, as appropriate.

3. The Permittee shall limit the hours of operation of the diesel-fired emergency generator engine constructed and operated at the facility to no more than 500 hours in any consecutive 12-month period.

4. The Permittee shall follow, for the engine and any respective control system, the manufacturer's recommended maintenance schedule and procedures to ensure good air pollution control practices for minimizing emissions.

5. VOC emissions from the diesel-fired emergency generator engine for each month shall be calculated using the methodologies and emission factors described in the most current version of EPA AP-42 – Compilation of Air Pollutant Emission Factors, Chapter 3.4 – Large Stationary Diesel and All Stationary Dual Fuel Engines, or emission factors from manufacturer specifications, and the following:

   (a) Maximum rated horsepower of the engine; and

   (b) Actual operating hours of the engine for the month (assume 1/12 of 500 hours if actual operating hours are not tracked or available).

6. Records shall be kept of the following:

   (a) The maximum rated hp of the engine installed at the facility per written manufacturer's specifications or the manufacturer's nameplate on the equipment;

   (b) The number of hours the engine operated in the year, or a notation that 500 hours per year operation is assumed; and

   (c) All maintenance and procedures performed on the engine constructed and operated at the facility.

I. Requirements for Records Retention

1. The Permittee shall retain all records required by this permit for a period of at least 5 years from the date the record was created.

2. Records shall be kept at the facility, the location that has day-to-day operational control over the facility, or the location that has day-to-day responsibility for compliance of the facility.

J. Requirements for Reporting

1. Annual Emission Reports

   (a) The Permittee shall submit a written annual report of the actual annual VOC emissions from all emission units at the facility each year no later than April 1st. The annual report shall cover the period for the previous calendar year. All reports shall be certified to truth and accuracy by the responsible official.

   (b) The report shall be submitted to:

   U.S. Environmental Protection Agency, Region 8
   Office of Partnerships and Regulatory Assistance
   Tribal Air Permitting Program, 8P-AR
   1595 Wynkoop Street
   Denver, Colorado 80202

   The report may be submitted via electronic mail to r8AirPermitting@epa.gov.

2. All other documents required to be submitted under this permit, with the exception of the **Annual Emission Reports**, shall be submitted to:

   U.S. Environmental Protection Agency, Region 8
   Office of Enforcement, Compliance & Environmental Justice
   Air Toxics and Technical Enforcement Program, 8ENF-AT
   1595 Wynkoop Street
   Denver, Colorado 80202

   Documents may be submitted electronically to r8airreportenforcement@epa.gov.

3. The permittee shall promptly submit to the EPA a written report of any deviations of emission or operational limits and a description of any corrective actions or preventative measures taken. A "prompt" deviation report is one that is post marked or submitted via electronic mail to R8AirPermitting@epa.gov within:

   (a) Within 30 days from the discovery of a deviation that would cause the permittee to exceed the facility-wide emission limits or operational limits if left un-corrected for more than 5 days after discovering the deviation; and

   (b) By April 1st for the discovery of a deviation of recordkeeping or other permit conditions during the preceding calendar year that do not affect the permittee's ability to meet the facility-wide emission limits.

4. The Permittee shall submit a written report for any required performance tests to the EPA Regional Office within 60 days after completing the tests.

5. The Permittee shall submit any record or report required by this permit upon EPA request.

II. General Provisions

A. Conditional Approval:

Pursuant to the authority of 40 CFR 49.151, the EPA hereby conditionally grants this permit to construct. This authorization is expressly conditioned as follows:

1. *Document Retention and Availability:* This permit and any required attachments shall be retained and made available for inspection upon request at the location set forth herein.

2. *Permit Application:* The Permittee shall abide by all representations, statements of intent and agreements contained in the application submitted by the Permittee. The EPA shall be notified 10 days in advance of any significant deviation from the permit application as well as any plans, specifications or supporting data furnished.

3. *Permit Deviations:* The issuance of this permit may be suspended or revoked if the EPA determines that a significant deviation from the permit application, specifications, and supporting data furnished has been or is to be made. If the proposed source is constructed, operated, or modified not in accordance with the terms of this permit, the Permittee will be subject to appropriate enforcement action.

4. *Compliance with Permit:* The Permittee shall comply with all conditions of this permit, including emission limitations that apply to the affected emissions units at the permitted facility/source. Noncompliance with any permit term or condition is a violation of this permit and may constitute a violation of the Clean Air Act and is grounds for enforcement action and for a permit termination or revocation.

5. *Fugitive Emissions:* The Permittee shall take all reasonable precautions to prevent and/or minimize fugitive emissions during the construction period.

6. *National Ambient Air Quality Standard and PSD Increment:* This permitted source shall not cause or contribute to a National Ambient Air Quality Standard violation or a PSD increment violation.

7. *Compliance with Federal and Tribal Rules, Regulations, and Orders:* Issuance of this permit does not relieve the Permittee of the responsibility to comply fully with all other applicable federal and tribal rules, regulations, and orders now or hereafter in effect.

8. *Enforcement:* It is not a defense, for the Permittee, in an enforcement action, to claim that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

9. *Facility/Source Modifications:* For proposed modifications, as defined at §49.152(d), that would increase an emissions unit allowable emissions of a PSD, MNSR, or HAPs above its existing

permitted annual allowable emissions limit, the Permittee shall first obtain a permit modification pursuant to the MNSR regulations approving the increase. For a proposed modification that is not otherwise subject to review under the PSD or MNSR regulations, such proposed increase in the annual allowable emissions limit shall be approved through an administrative permit revision as provided at §49.159(f).

10. *Relaxation of Legally and Practically Enforceable Limits:* At such time that a new or modified source within the permitted facility/source or modification of the permitted facility/source becomes a major stationary source or major modification solely by virtue of a relaxation in any legally and practically enforceable limitation which was established after August 7, 1980, on the capacity of the permitted facility/source to otherwise emit a pollutant, such as a restriction on hours of operation, then the requirements of the PSD regulations shall apply to the source or modification as though construction had not yet commenced on the source or modification.

11. *Revise, Reopen, Revoke and Reissue, or Terminate for Cause:* This permit may be revised, reopened, revoked and reissued, or terminated for cause. The filing of a request by the Permittee, for a permit revision, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition. The EPA may reopen a permit for a cause on its own initiative, e.g., if the permit contains a material mistake or the Permittee fails to assure compliance with the applicable requirements.

12. *Severability Clause:* The provisions of this permit are severable, and in the event of any challenge to any portion of this permit, or if any portion is held invalid, the remaining permit conditions shall remain valid and in force.

13. *Property Rights:* This permit does not convey any property rights of any sort or any exclusive privilege.

14. *Information Requests:* The Permittee shall furnish to the EPA, within a reasonable time, any information that the EPA may request in writing to determine whether cause exists for revising, revoking and reissuing, or terminating the permit or to determine compliance with the permit. For any such information claimed to be confidential, you shall also submit a claim of confidentiality in accordance with 40 CFR Part 2, Subpart B.

15. *Inspection and Entry:* The EPA or its authorized representatives may inspect the permitted facility/source during normal business hours for the purpose of ascertaining compliance with all conditions of this permit. Upon presentation of proper credentials, the Permittee shall allow the EPA or its authorized representative to:

    (a) Enter upon the premises where a permitted facility/source is located or emissions-related activity is conducted, or where records are required to be kept under the conditions of the permit;

    (b) Have access to and copy, at reasonable times, any records that are required to be kept under the conditions of the permit;

    (c) Inspect, during normal business hours or while the permitted facility/source is in operation, any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit;

(d) Sample or monitor, at reasonable times, substances or parameters for the purpose of assuring compliance with the permit or other applicable requirements; and

(e) Record any inspection by use of written, electronic, magnetic and photographic media.

16. *Permit Effective Date:* The permit is effective immediately upon issuance unless comments resulted in a change in the proposed permit, in which case the permit is effective 30 days after issuance. The Permittee may notify the EPA, in writing, that the permit or a term or condition of it is rejected. Such notice should be made within 30 days of receipt of the permit and should include the reason or reasons for rejection.

17. *Permit Transfers:* Permit transfers shall be made in accordance with 40 CFR 49.159(f). The Air Program Director shall be notified in writing at the address shown below if the company is sold or changes its name.

U.S. Environmental Protection Agency, Region 8
Office of Partnerships and Regulatory Assistance
Tribal Air Permitting Program, 8P-AR
1595 Wynkoop Street
Denver, Colorado 80202

18. *Invalidation of Permit:* The permit becomes invalid if construction is not commenced within 18 months after the effective date of the permit, construction is discontinued for 18 months or more, or construction is not completed within a reasonable time. The EPA may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between the construction of the approved phases of a phased construction project. The Permittee shall commence construction of each such phase within 18 months of the projected and approved commencement date.

19. *Notification of Start-Up:* The Permittee shall submit a notification of the anticipated date of initial start-up of the permitted source to the EPA within 60 days of such date, unless the permitted source is an existing source.

B. Authorization:

Authorized by the United States Environmental Protection Agency, Region 8

11/20/13

Howard M. Cantor, for
Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance

Date