



TULANE ENVIRONMENTAL LAW CLINIC

December 6, 2010

Via U.S. Mail and E-mail

Lisa Jackson, EPA Administrator
Rm. 3000 Ariel Rios Bldg.
1200 Pennsylvania Ave., NW
Washington, D.C. 20460

RE: Petition to EPA to Object to the Proposed Part 70 Air Operating Permit for NORANDA ALUMINA, LLC, AI 1388:

BAUXITE PROCESSING, PRODUCTS AND POWER AREAS
Permit Numbers 2453-V2 and PSD-LA-684 (M-1)

Dear Administrator Jackson,

Pursuant to section 505(b)(2) of the Clean Air Act, 42 U.S.C. § 7661d(b)(2) and 40 C.F.R. § 70.8(d), the Sierra Club and Louisiana Environmental Action Network (“Petitioners”) petition the Administrator of the U.S. Environmental Protection Agency to object to the draft Pt. 70/Title V Permit Number 2453-V2 (“permit”) proposed by the Louisiana Department of Environmental Quality for the Noranda Alumina Processing Plant in Gramercy, Louisiana.

Under CAA section 505(b)(1), 42 U.S.C. § 7661d(b)(1), the Administrator shall object to the issuance of any permit not in compliance with the CAA requirements. Petitioners ask the Administrator to object the draft permit for reasons specified in comments that Petitioners and EPA Region 6 submitted to LDEQ during the public comment period on the permit. Petitioners incorporate by reference to this petition these comments and attach them here.

Petitioners also offer the following arguments to further explain objections they raised in their comments and provide additional support for an EPA objection to the permit.

I. THE BAUXITE YIELD IMPROVEMENT PROJECT TRIGGERS PSD REQUIREMENTS FOR THE PLANT’S NOX EMISSIONS.

Sierra Club is aware that as part of its New Source Review analysis Noranda submitted emissions calculations for its proposal to increase the bauxite yield from 1.25

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tons per year to 1.28 tons per year. See Application, Appendix 2, NSR Analysis, EDMS # 48810181, pp. 556-561. Sierra Club also understands that Noranda compared the Projected Actual Emissions (PAE) to Baseline Actual Emissions (BAE) using the calendar years 2005 and 2006 to determine if the yield improvement project will result in either a significant emissions increase. Id.

In this calculation, Noranda excluded “that portion of the emissions from the impacted units following the yield improvement project that those units could have accommodated during the 24-month consecutive period used to establish the baseline actual emissions and that are unrelated to the yield improvement project.” Id. (relying on section c. of the Louisiana SIP definition of PAE, LAC 33:III.509.B).

Noranda lists the plant’s three kilns as impacted units. Noranda calculates the following NOx emissions for the kilns in tons per year:

Kiln #1 (1-73) has a PAE of 111.47 and a BAE of 105.79

Kiln #2 (2-73) has a PAE of 125.61 and a BAE of 118.98

Kiln #3 (1-70) has a PAE of 202.99 and a BAE of 192.06

Id.

By excluding NOx emissions from the kilns in calculating the PAE, Noranda claims that the emission increases from the project do not exceed the PSD threshold for NOx. Noranda, however, excluded emissions that the effected units could not legally accommodate during the 24-month period, i.e., 2005 and 2006. That is, practically enforceable conditions in Noranda’s Title V permit in effect during the 24-month period provide that “[t]o maintain emissions from Emission Points 1-70, 1-73, 2-73. . . [and] [e]mission Cap[] 4-01, . . . permittee shall maintain maximum throughput of the Bauxite Processing (BP) Area to 1.25 million metric tons per year (as alumina).” Permit No. 2453-VI, Special Condition 7 (emphasis added). PSD-LA-648, issued April 2003, also contains a practically enforceable limit on yield production at 1.25 tons per year. PSD—LA-648, Special Condition 3. Therefore, these permits require Noranda to limit throughput to 1.25 tons per year as a means to maintain emission limits for the very units that Noranda now claims could have accommodated the additional throughput.

Noranda cannot have it both ways. In 2003, Noranda asked for a cap in its Title V and PSD permit so that it can avoid PSD requirements. Now Noranda wants to remove that cap—or synthetic minor limit—to show that it was “capable of accommodating” the increased emissions associated with the yield improvement project all along. This is illegal under the Clean Air Act. Noranda cannot claim that the existing kilns (Emission Points 1-70, 1-73, 2-73), which Noranda lists as impacted units, could have “accommodated” emissions from the yield improvement project because the kilns could not have “accommodated” emissions that violate the permits.

II. NORANDA'S 2003 EMISSIONS TESTS SHOW THE PLANT IS A MAJOR SOURCE OF NOX AND IT WAS REQUIRED TO COMPLY WITH PSD REQUIREMENTS FOR ITS NOX EMISSIONS AT THAT TIME.

The proposed Title V permit fails to include applicable PSD requirements—though emission rates from performance tests conducted in 2003 show the plant is a major source of NOx emissions. Instead of conducting the appropriate Best Achievable Control Technology analysis as required by Louisiana's PSD regulations for its NOx emissions, and meeting the other requirements for a major source of NOx, Noranda asked LDEQ to modify its Title V permit to incorporate higher emission limitations to accommodate the plant's actual NOx emissions. This scheme violates the Clean Air Act. Noranda cannot obtain a synthetic minor source permit based on low/inaccurate emissions estimate, and then ask LDEQ to update its Title V permit to include the higher emissions rate without meeting PSD requirements for those emission sources that Noranda discovered do in fact trigger PSD.

A Title V permit must “include enforceable emission limitations and standards . . . and such other conditions as are necessary to assure compliance with applicable requirements of this Act, including the requirements of the applicable [state] implementation plan.” 42 U.S.C. § 7661c(a). “Applicable requirements” include PSD requirements. By failing to include the PSD requirements applicable to a major source of NOx, Noranda's Title V permit violates the Act. 40 C.F.R. § 70.2.

Furthermore, upon discovering the plant's true NOx emissions rate, LDEQ should have reopened and revised the PSD and Title V permits it issued in 2003. The regulations provide that LDEQ may reopen and revise any Title V or PSD permit if any person demonstrates that:

[T]he permit contains a material mistake, that inaccurate statements were made in establishing the terms of or conditions of the permit, or that the permit must be revised to assure compliance with any federally applicable requirement or any applicable provision of LAC 33:III, Air Quality Regulations.

La. Admin. Code tit. III § 529.A. Here, the emissions tests—which the plant submitted to LDEQ in 2003—show that the emissions estimate on which LDEQ granted the minor source permit was grossly inaccurate. Noranda used the wrong emissions factor when it applied for the PSD and Title V permits that LDEQ issued in 2003. Compare Emissions Calculations for Kiln Cap 4-01. This is a material mistake that requires LDEQ to reopen the permits to address all PSD requirements including BACT for the plant's NOx emissions.

Respectfully submitted on December 6, 2010 by,

/s/

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*On behalf of Louisiana Environmental Action Network,
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Cc:

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Noranda Alumina, LLC