

Technical Support Document

Synthetic Minor Source Permit
For
NuStar Logistics, L.P.
Rosario Terminal

Permit Number: R6NSR-NM-002
SIC 4226, NACIS 493190
January 2016

I. SUMMARY

This technical support document provides an analysis of the permit application and provides the legal and factual basis for the proposed permit conditions for an existing source operated by NuStar Logistics, L.P. (NuStar) on the Pueblo of Santo Domingo in Sandoval County, New Mexico. This document is intended for use by all parties interested in the permit.

NuStar operates an asphalt loading facility, an asphalt cement plant and a crude oil transloading facility located on the Pueblo of Santo Domingo lands in Sandoval County, New Mexico. Emission units from this plant include six asphalt tanks, the asphalt loading facility, one gas fired boiler, two gas fired heaters, a polymer mill (PMA) plant, and a crude oil transloading facility. The PMA plant and asphalt loading facility have been in operation since 2001. NuStar registered the existing facility, including the PMA plant and asphalt loading facility, and its emissions in 2012 in compliance with the Tribal New Source Review (NSR) rule at 40 CFR Part 49 (Tribal NSR Rule). On July 2, 2014, NuStar began operating a crude oil transloading facility. The operation of this facility was granted on October 15, 2013 by the former Governor of the Santo Domingo Tribe, Felix Tenorio Jr. The crude oil transloading facility project and its emissions were registered with EPA on September 30, 2014, updating the facility-wide registration that included the emissions of the crude oil transloading facility.

On March 15, 2015, NuStar submitted a synthetic minor permit application to EPA Region 6, pursuant to 40 CFR § 49.158, requesting practically enforceable conditions to limit the facility-wide emissions of volatile organic compounds (VOC) from the existing PMA plant, asphalt loading facility and crude oil transloading facility (the facility), to less than 100 tpy, the major source threshold under the Title V operating permit program at 40 CFR Part 71 (Part 71). Prior to operation of the crude oil transloading station, the NuStar asphalt facility was a true minor source. Consequently, NuStar has proposed to use a vapor balance system to reduce the VOC emissions from the crude oil transloading facility and to keep the facility wide VOC emissions below 100 tpy. Upon compliance with this permit, NuStar will have legally and practically enforceable requirements to reduce VOC emissions, which can be accounted for when determining the applicability of other Clean Air Act (CAA) requirements, such as Prevention of Significant Deterioration (PSD) and Part 71.

Applicant:

NuStar Logistics, L.P.
967 NM 16 Road,
Pena Blanca,
Sandoval County
New Mexico 87041
Facility contact: Tina Proctor, Environmental Manager, Gulf Coast
(832) 536-3208
Tina.Proctor@nustarenergy.com

Permitting Authority:

EPA, Region 6
1445 Ross Avenue, Ste. 1200
Dallas, TX 75202

The EPA, Region 6 Permit Writer is:
Bonnie Braganza
Air Permitting Section (6PD-R)
(214) 665-7340
braganza.bonnie@epa.gov

II. REGULATORY APPLICABILITY**a. Synthetic Minor Permit Requirements**

On July 1, 2011, the EPA promulgated a Federal Implementation Plan (FIP) under the CAA for Indian country. The FIP includes two NSR regulations for the protection of air resources in Indian country. The first rule (minor NSR rule) applies to new and modified minor stationary sources (minor sources) and to minor modifications at existing major stationary sources (major sources). The second rule applies to new and modified major sources in areas of Indian country that are designated as not attaining the National Ambient Air Quality Standards (NAAQS) (nonattainment major NSR rule). Currently, EPA directly implements these rules on reservation lands within Region 6, which includes Pueblos and tribally-owned trust lands.

The minor NSR rule required existing minor sources on Indian reservations that would have minor modifications to apply for a permit if construction starts on or after September 2, 2014. NuStar commenced construction of the crude oil transloading facility in June 2014 and registered the emissions in accordance with 40 CFR § 49.156 on September 30, 2015. The EPA received the synthetic minor permit application on March 11, 2015, in accordance with 40 CFR § 49.158.

According to information provided by NuStar in the permit application, absent any restrictions on its potential to emit (PTE), the PTE of regulated VOC NSR pollutants is at or above the major source thresholds under Part 71 (40 CFR§71.2). Specifically, without legally and practically enforceable restrictions the source would otherwise have the potential to emit VOC at a major source level. A Part 71

operating permit application been submitted to EPA on July 1, 2015, which will be rescinded on issuance of this synthetic minor permit.

b. PTE Limitations

The proposed permit contains an enforceable emissions and operational limitations that will result in facility-wide annual allowable VOC emissions that are below the major source levels for Part 71 applicability. PTE may be limited through “any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed”¹ if the limitation is enforceable as a practical matter. The provisions in the proposed permit meet requirements for practical enforceability, specifying: the emission units and activities subject to the limitations; the time period for the limitations; and the methods to determine compliance.

We require that the emissions limitations have a reasonably short averaging period, taking into consideration the operation of the source and the methods to be used for demonstrating compliance. EPA's guidance¹ also explains that an emission limitation alone, expressed as a long-term rolling average (e.g., a rolling 12-month total) should not be relied upon in most cases as the sole basis for a PTE limit. Instead short term limits and/or other parameters such as feed rate or other operational restrictions should be considered. EPA determined that operational and work practice requirements are necessary for the practical enforceability of the facility-wide VOC emission limit which are specific conditions in the permit that include inspection of vapor balance systems and submerged filling. The PTE for the crude oil transloading operations were calculated based on an annual throughput of 1.756 million barrels of crude oil being transferred from rail cars to trucks. This operation is limited by the maximum number of full railcars that can fit onto the truck-rail spur for transloading at any given time and the maximum frequency of rail switches provided to the facility by the railroad company operation. The facility's transloading rail spur can only accommodate 17 full railcars before a rail switch is necessary to provide empty rail cars. Each rail car has a maximum capacity of 660 barrels. There are two transloading operations and the railroad company provides for a maximum of 3 switches per week per railspur. This limit is imposed by the railroad company Burlington North and Santa Fe (BNSF).

The permit specifies that vapor balancing must be used always during the transloading operations with a minimum emission control efficiency of 40% using submerged filling. The proposed permit contains requirements for conducting periodic performance maintenance for the vapor balance equipment to minimize emissions during the crude oil transloading operations. The emissions based on AP-42 factors and methodology² utilizing vapor balancing and submerged filling are calculated to have a 65% emission control efficiency, however the applicant has chosen to use in its compliance calculations a conservative reduced emission control efficiency of 40% that will still ensure compliance at all times with the synthetic minor VOC limit established in the permit.

¹ Guidance on Limiting Potential to Emit in New Source Permitting,” (NSR) dated June 13, 1989, to EPA Regional Offices, from Terrell F. Hunt, Associate Enforcement Counsel, Air Enforcement Division, Office of Enforcement and Compliance Monitoring (OECA), and from John Seitz, Director, Stationary Source Compliance Division, Office of Air Quality Planning & Standards (OAQPS) (available online at: http://www3.epa.gov/airtoxics/pte/june13_89.pdf)

² EPA's “Compilation of Air Pollutant Emission Factors” (AP – 42) Fifth Edition, January 1995, Volume 1 (Stationary Point and Area Sources), Section 5.2.2.1.1 (Loading Losses).

All criteria pollutants will require monitoring of fuel and product rates that will be used in the emission calculations. Since the only pollutant that would make the source major for a Part 71 operating permit is VOC from the crude oil transloading operations, the proposed permit contains annual VOC permit limits based on a 12-month rolling average. The cumulative PTE VOC emissions for the emission units in the asphalt plant is 2.68 tpy. The permit specifies that VOC monitoring for the asphalt plant will be the asphalt loading rates, and the crude transloading rates based on a 12-month rolling average. The permit also contains specific operating and maintenance practices required to meet the emission limitation.

40 CFR § 49.155(a)(1) through (7) specifies the required contents for a synthetic minor permit, all of which are addressed in the provisions of the draft permit. The draft permit includes emissions limitations and appropriate provisions for monitoring, recordkeeping and reporting.

c. Other EPA regulations.

1. NSPS K_b does not apply to the diesel storage tanks since the vapor pressure of the asphalt at tank temperatures of 300⁰ F is less than 0.05 psia (actual vapor pressure is 0.002 psia).
2. The emissions calculations on the limited crude oil transloading and asphalt facility is below the major source threshold of HAP (25 /10 TPY). The source is not major for HAP.
3. The area source MACT for boilers and heaters does not apply since the permit restricts the use of fuel to only pipeline grade natural gas.
4. The facility is not an asphalt processing plant as defined in 40 CFR § 63.8698, which applies to facilities that produce “blown” asphalt for use in the roofing industry.
5. The facility is also not subject to 40 CFR § 60.90, since the facility processes liquid asphalt from refineries and prepares them for use in the hot mix asphalt, and does not involve mixing of aggregates or mineral fillers into the asphalt prior to shipment.
6. 40 CFR Part 60, Subpart OOO for non-metallic mineral does not apply to the polymer mill since the plant does not crush or grind any mineral materials and is not considered a hot mix asphalt facility.
7. Since this is a minor NSR source, the permit does not have any requirements for limiting GHG emissions³.

d. Attainment Designation

The Santo Domingo Pueblo in Sandoval County, New Mexico is currently designated as an attainment or unclassified area for all NAAQS. The major source threshold for source categories not listed at 40 CFR§ 52.21(b)(1)(i)(a) for all criteria pollutants is 250 tons per year (tpy). Additionally, there are no designated non-attainment areas in the regional vicinity of the source. There are no air monitoring stations in the

³ Memorandum from Janet and Cynthia Giles to the Regional Administrators dated July 24, 2014 regarding Next Steps and Preliminary Views on the Application of Clean Air Act Permitting Programs to Greenhouse Gases Following the Supreme Court's Decision in *Utility Air Regulatory Group 1*. *Environmental Protection Agency*.

vicinity of this location in Indian country. The closest EPA-approved monitoring stations are maintained by the City of Albuquerque-Bernalillo County.

e. Location:

The NuStar facility is located in Sandoval County in New Mexico (see Figure 1).

Figure 1



III. SOURCE DESCRIPTION

NuStar operates a bulk loading facility consisting of a PMA plant, an asphalt loading and crude oil transloading facility on the Pueblo of Santo Domingo in Sandoval County, New Mexico. The asphalt is received in the facility via railcars and then stored in heated storage tanks. The asphalt is loaded in trucks at the loading facility or based on the consumer’s specification some additives are added and mixed in the tanks prior to loading of trucks. All the additives consist of solid pellets and are mixed in the fixed roof tanks. All mixers in the tanks use electric power from the grid. The only pollutant from this operation is VOC as a result of tank and loading emissions. The asphalt throughput is estimated 3.504 MM bbl per year.

The PMA plant is used to make polymer grade asphalt cement by mixing liquid asphalt with various types of polymers. The polymer is received at the terminal in super sacks and sulfur is received in 50 pound bags. These dry materials are stored in the same warehouse that the mill is located. The polymer sacks are held over a bin by forklift where the bottoms are cut to release the material into the bin. The polymer pellets are transferred from the bin by an enclosed auger to a 60 gallon wetting tank (WT-001) where the material is blended with liquid asphalt that is being pumped from a 10,000 barrels PMA storage tank (Unit 10-03 or 10-04). This mixture is fed into the polymer mill and then returns into a PMA storage tank (Unit 10-03 or 10-04) for blending. Once blended, the mixture is recirculated to the wetting tank where sulfur pellets are added. This mixture is returned directly the PMA storage tank

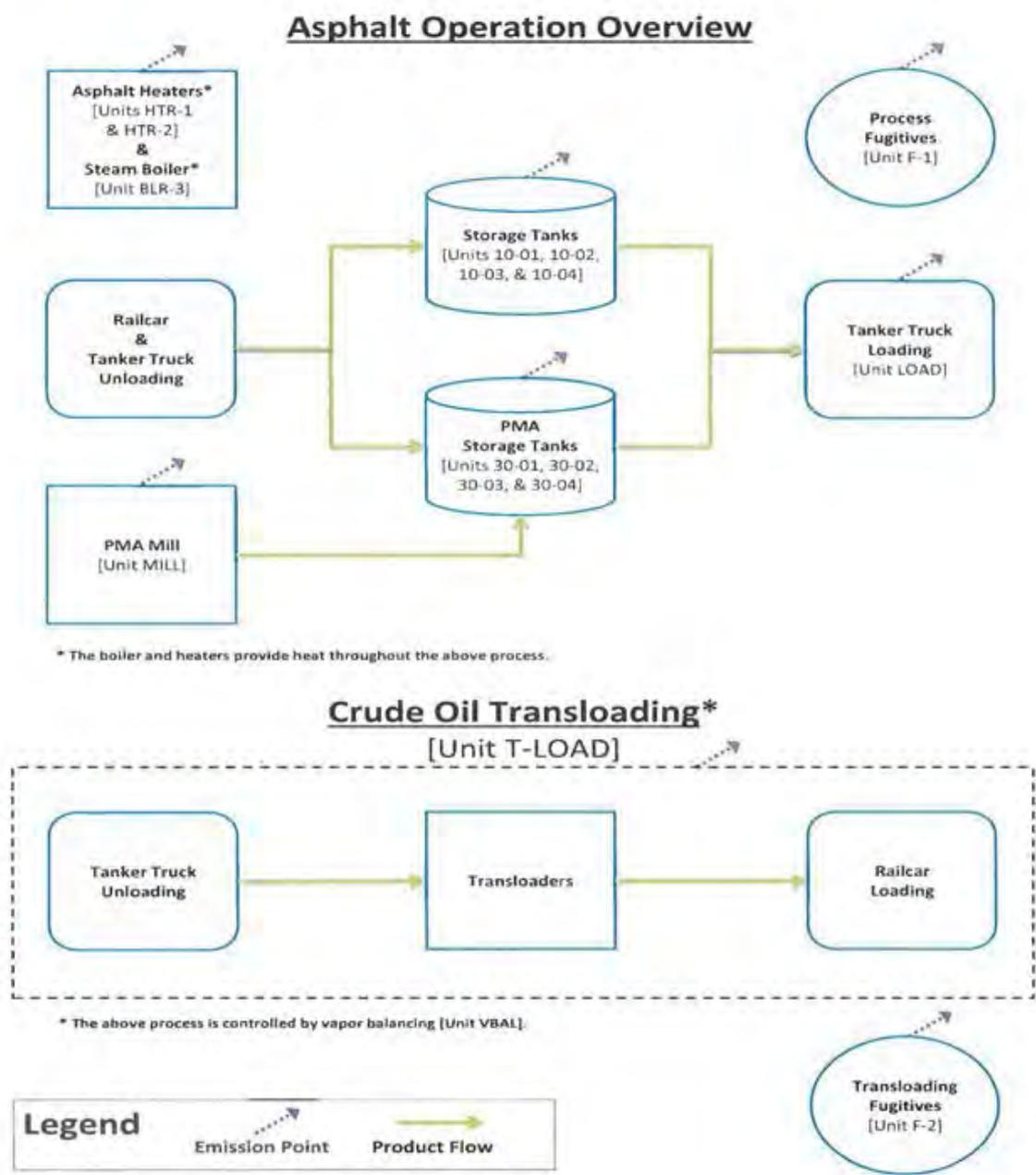
containing the blended polymer product for final curing, prior to being loaded into trucks to the hot mix asphalt plants.

The asphalt and crude oil facility transfer operations are shown in Figure 2. Asphalt is received by railcar and shipped out by truck. One asphalt truck bay with one transfer operation at a time occurs at this facility. The asphalt tanker trucks take roughly 20-30 minutes to load asphalt from the tanks. The capacity of the tanker trucks are 145 barrels. The steam boiler is used to heat asphalt rail cars that are unloaded into facility storage tanks. All the tanks (Units 10-01, 10-02, 10-03, 10-04, 30-01, 30-02, 30-03, and 30-04) have electrically driven 40 hp mixers within the tanks. The tanks are insulated but not housed in a building. The two heaters are used to heat the asphalt for loading in the tanker trucks. The asphalt temperature is maintained at 300 °F. The boilers and heaters are restricted to only use pipeline natural gas.

Tanker trucks haul in crude oil to the facility where a transloader will transfer the crude oil into a railcar. The crude oil transloading facility consists of two rail spurs. Each rail spur can only accommodate 17 full railcars before a rail switch is necessary to provide empty rail cars. Each rail car has a maximum capacity of 660 barrels. The facility can accommodate a maximum of 3 switches per week per railspur. This limit is imposed by the railroad company BNSF. The maximum crude oil to be transloaded is 1.76 MM barrels per year.

The permit specifies that vapor balancing and submerged filling must be used at all times during the crude oil transloading operations.

Figure 2
Rosario Terminal Operations



IV. EQUIPMENT COVERED BY PERMIT

Table 1

Emission Unit Description	Emission Point Number (EPN)	Model or Type of Equipment	Maximum Design Capacity
Asphalt storage tanks	10-01,10-02,10-03,10-04	Fixed roof insulated tanks	10,000 barrels
Asphalt storage tanks	30-01,30-02,30-03,30-04	Fixed roof insulated tanks	30,000 barrels
Asphalt heater	HTR-1	Natural gas burners	25.2 MMBtu/hr
Asphalt heater	HTR-2		18.7 MMBtu/hr
Steam boiler	BLR-3		17.5 MMBtu/hr
Asphalt loading facility	B2	Truck bay	3.504 MM bbls/yr
Polymer mill	Mill	Open bins, wet mixing vessel, shearing mill, electric driven pumps and ancillary equipment	
2 Crude oil transloading stations	T-LOAD	Transloading spur, railcars and trucks	1.76 MM bbls/yr. Each rail car capacity is 660 barrels
2 Vapor balance control devices	VBAL	Hoses and connectors from crude oil railcars to tanker trucks	
Fugitive sources	F-Plant	Piping connectors, valves, etc.	

V. CONTROL TECHNOLOGY EVALUATION

The control technology evaluation for existing units and operations primarily considers the best operating practices to limit emissions without add on control devices. The asphalt plant has been in operation since 2001. The heaters and boilers will only utilize natural gas fuel which is the control technology for the boilers and heaters having design duties of less than 50 MMBtu/hr.

The crude oil transloading facility will operate with a vapor balancing system and submerged filling during loading which is an operational control method for VOC emissions. Another method common to loading operations to control VOC emissions is destruction via a thermal oxidizer. However using such a control not only adds other criteria pollutants and GHG as a result of fuel combustion but also is not suitable for batch operations. Two options exist for operation of a thermal oxidizer for batch operations, one is to keep operating continuously or operate on a batch mode. Operation of the thermal oxidizer on a batch mode will require several startup and shutdowns per week and during those startup and shutdown events the system does not work efficiently. Operation continuously not only wastes energy but also adds to additional criteria pollutants and GHG.

Vapor balancing methods recycle the VOC to the system and can be as effective as VOC destruction. (See discussion on AP-42, Chapter 5)². EPA believes the vapor balance system would be an effective emission operational control in this case for batch system crude oil transloading operations.

The calculated efficiencies by the AP-42 method ² for submerged filling with vapor balance systems for tanker trucks and rail cars is 65%. Submerged filling requires the fill pipe opening to be below the liquid surface level. Liquid turbulence is controlled significantly during submerged filling, resulting in much lower vapor generation than encountered during splash loading. Vapor balancing in this case requires the displaced vapors from the railcar to be piped to the tanker truck. One vapor balancing hose is used for each crude oil transloading spur. Specific work practice standards such as the determining the integrity of vapor balance hoses and connectors prior to conducting the crude oil transloading operations. Monitoring the operations during the loading operations are specified in the proposed permit using olfactory, visual, and auditory techniques. If a crude oil leak is detected, the Permittee is required to discontinue the use of the station and repair the leak prior to resuming use of the truck loading station.

Work practice standards have been included in the draft permit to meet the recommended manufacturers' maintenance and recommended operating and inspection procedures as well as annual operational restrictions for each facility.

VI. PERMIT LIMITATIONS

The VOC facility wide emission limit is based on the calculations provided in the application dated March 15, 2015 and April 2015 and are based on continuous operation for 8760 hours per year. The VOC emissions from crude oil transloading are based on compliance calculations using a conservative emission control efficiency of 40% instead of the calculated AP-42, fifth edition, Chapter 5-2-2 equation value of 65%. The permit requires the applicant to calculate emissions from the facility based on the latest edition of AP-42 methods. The permit contains the following conditions:

- 1) The VOC emissions in Table 2 below are based on the crude oil transloading facility using vapor balance control and submerged filling having a conservative emission control efficiency of 40% to calculate emissions.
- 2) Only pipeline natural gas will be used for the heaters and boilers. The natural gas rate will not exceed a 12-month rolling average of 528 MM SCF.
- 3) The permit indicates that there will be no visible emissions from this facility during asphalt loading and crude transloading operations.
- 4) The practically enforceable emissions and operating limitations in the proposed permit will result in facility-wide potential emissions that are well below the Part 71/PSD major source thresholds of 100/250 tpy for any criteria pollutant to account for a 10+% margin of error in emission estimations/calculations and meter readings.
- 5) The permit states that the facility must conduct an inspection of all crude oil transloading vapor hoses for integrity prior to starting operations.

- 6) The permit restricts the crude oil and asphalt annual loading operating rates to ensure the facility's VOC emission are less than 100 tpy.

Table 2

Emission Limits and Standards.

Equipment Type	Emission Point Identification Number (EPN)	Operational or Work Practice Standards	Emission Standard or Limits
Asphalt storage tank ¹	10-01, 10-02, 10-03, 10-04	Insulated fixed roof	Tank emissions are based on asphalt production and transfer loading of 3.504 MM bbls per year
Asphalt storage tank ¹	30-01, 30-02, 30-03, 30-04	Insulated fixed roof	
Asphalt heaters ¹	HTR-1	Only use of pipeline natural gas fuel, good combustion practices based on manufacturer's operations and maintenance schedules	Annual fuel consumption not to exceed 528 MMSCF based on a 12-month rolling average
	HTR-2		
Steam boiler ¹	BLR-3		
Asphalt loading facility ¹	B2	No applicable regulation since vapor pressure is less than 0.05 psia. Dedicated service for trucks and tanks	3.504 MM bbls per year based on a 12-month rolling average. See Special Conditions 5 & 7
Crude oil transloading operations	T-LOAD	Submerged filling/vapor balancing to achieve a minimum of 40% control	VOC emissions not to exceed 80 tpy. See Special Conditions 2-4
Fugitive sources ¹		Inspects all pipes and fixtures monthly for leaks. Repair prior to use or within 5 days if in continuous use	

¹ Insignificant VOC emissions of less than 0.5 tpy per source will not require monitoring of VOC emissions

VII. MONITORING REQUIREMENTS

- 1) The Permittee shall operate and maintain the equipment per the manufacturer's recommendations for the boilers and heaters.
- 2) Prior to each loading operation, the hoses shall be examined for integrity for operation with no visible holes, leaks or cracks. The Permittee shall monitor all lines, connections, fittings, valves, or any other appurtenance employed to collect, contain, and/or move crude oil at each transloading station for crude oil leaks during all crude oil loading events using olfactory, visual, and auditory techniques. If a leak is detected, the Permittee shall discontinue the use of the station and repair the leak prior to resuming use of the truck loading station. Additionally there shall be no visible emissions during asphalt and crude oil loading emissions.
- 3) Monitor fuel rate to the heaters and boiler (EPNs: HTR-1, HTR-2, BLR-3) on a monthly basis from the natural gas meter to the facility to meet the limit in Table 2 based on a 12-month rolling average.
- 4) Asphalt transfer operations should be conducted to ensure there are no spills during the transfer.
- 5) Monitor the monthly the asphalt transfer loading rates to calculate a 12-month rolling average for calculating annual VOC emissions.

VIII. RECORD KEEPING REQUIREMENTS

- 1) Maintain records of the time, day and duration of each crude oil loading activity, including the check for integrity of the vapor balance system as described in Section VI.2.
- 2) Record the actual monthly and rolling 12-month volume of crude oil loaded from rail cars into trucks in barrels.
- 3) VOC emissions from the crude oil transloading operations shall be calculated in tons and recorded at the end of each month beginning with the first calendar month that permitted operations commence. Prior to 12 full months of data, the Permittee shall within seven (7) calendar days of the end of each month, add the emissions for that month to the calculated emissions for all previous months since permitted operations commenced and record the total. Thereafter, the Permittee shall, within 7 calendar days of 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.
- 4) VOC emissions from railcar loading for each calendar month shall be calculated using the methodology described in the most current version of 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 transloaded for the month (bbl);

- ii. Molecular weight of vapors, pounds per pound-mole (lbs/lb-mole) using the true vapor pressure of the crude oil (> 2 psia), and.
 - iii. The assumed vapor balance efficiency of 40%.
- 5) Record the monthly throughput of asphalt loading operations. Calculate the 12-month rolling average of asphalt loading by adding the total for the most recently completed calendar month to the individual monthly totals for the preceding 11-months.
- 6) Maintain records of the natural gas flow rate to the heaters and boiler on a monthly basis. Calculate fuel usage based on a 12-month rolling basis to determine compliance with the annual limit in Table 1. Compliance for the consecutive 12-month period shall be demonstrated monthly by adding the total for the most recently completed calendar month to the individual monthly totals for the preceding 11-months.
- 7) Maintain all maintenance records of the tanks, crude oil transloading vapor hoses and fugitive sources in the plant.
- 8) Keep records of all input parameters and methodologies used to calculate VOC emissions from the crude oil transloading operations.
- 9) All records shall be retained for a minimum of 5 years from the time such record was created.

IX. REPORTING REQUIREMENTS

Reports should be sent electronically to EPA Compliance and Enforcement Division at: R6TribalNSRCompliance@epa.gov with a copy to R6AirPermits@epa.gov

- 1) The Permittee shall promptly submit to 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 marked via electronic mail to R6TribalNSRCompliance@epa.gov
 - a) Thirty (30) days from the discovery of a deviation that would cause the Permittee to exceed the facility-wide emission limits if left un-corrected for more than five (5) days after discovering the deviation; and
 - b) Twelve (12) months from the discovery of a deviation of recordkeeping or other permit conditions that do not affect the permittee's ability to meet the facility-wide emission limits.
- 2) An annual report documenting the twelve (12) month annual emissions for each previous calendar year no later than April 1st is to be submitted to EPA to the addresses as indicated above. For the first calendar year the Permittee shall submit the cumulative facility wide limits. The report shall also document that no operational restriction has been exceeded, if there were no deviations from the permit limits.
- 3) Annual emissions are to be calculated using appropriate methods as in stated in the permit.

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

X. AIR QUALITY REVIEW

Although the minor NSR permitting requirements applicable to Indian Country do not specifically require an air quality impact analysis (AIQA) for sources constructed prior to the effective date of the Tribal NSR permitting program that are seeking synthetic minor NSR permits, EPA evaluated the existing air quality monitoring data (Albuquerque Del Norte and Santa Fe Airport air monitoring locations) near the NuStar Logistics Rosario Terminal to characterize the current ambient air quality and to determine what impacts the emissions from the existing source may have. EPA reviewed the most recent ambient air quality data taken from nearby monitors located in both Albuquerque and Santa Fe. The current air quality data measured at the nearest monitors to the site do not show any monitored exceedances and the most recent design values for the pollutants of concern are well below the corresponding national ambient air quality standards (NAAQS)⁴. Therefore, EPA Region 6 believes there is substantial evidence indicating that the current existing facility as designed and operated in conjunction with the synthetic minor limits established in the permit will not cause or contribute to a violation of the NAAQS since the currently monitored design values are significantly less than the applicable NAAQS thresholds and the expected contribution from this synthetic minor source is not significant.

XI. TRIBAL AND STATE NOTIFICATIONS:

In compliance with 49 CFR § 49.157(b), the public notice was sent to New Mexico Environment Department, Albuquerque Department of Environmental Quality and the Santo Domingo Pueblo Environmental Department. EPA provided notice to four adjacent tribal nations regarding this application and an invitation to consult if needed.

XII. ENDANGERED SPECIES ACT

Pursuant to Section 7(a)(2) of the Endangered Species Act (ESA) (16 U.S.C. 1536) and its implementing regulations at 50 CFR Part 402, EPA is required to insure that any action authorized, funded, or carried out by EPA is not likely to jeopardize the continued existence of any federally-listed endangered or threatened species or result in the destruction or adverse modification of such species' designated critical habitat. EPA has identified seven (7) species listed as federally endangered or threatened in Sandoval County, New Mexico:

⁴ **Summary of 2012-2014 ambient air monitoring data design values (DVs) in the Albuquerque/Santa Fe areas:** 8-hour Ozone: NAAQS = 75 ppb, Albuquerque DV = 69 ppb, Santa Fe DV = 66 ppb; 1-hour NO₂: NAAQS = 100 ppb, Albuquerque Del Norte site DV = 45 ppb; 24-hour PM_{2.5}: NAAQS = 35 ug/m³, Albuquerque Del Norte site DV = 16 ug/m³, Santa Fe DV = 9 ug/m³; Annual PM_{2.5}: NAAQS = 12 ug/m³, Albuquerque Del Norte site DV = 6.5 ug/m³, Santa Fe DV = 4.5 ug/m³.

Federally Listed Species for Sandoval County by the U.S. Fish and Wildlife Service (USFWS) and New Mexico Department of Game and Fish (NMDGF)	Scientific Name
Birds	
Mexican Spotted Owl	<i>Strix occidentalis lucida</i>
Southwestern Willow Flycatcher	<i>Empidonax traillii extimus</i>
Yellow-billed Cuckoo	<i>Coccyzus americanus</i>
Costa's Hummingbird	<i>Calypte costae</i>
Amphibians	
Jemez Mountains Salamander	<i>Plethodon neomexicanus</i>
Fishes	
Rio Grande Silvery Minnow	<i>Hybognathus amarus</i>
Mammals	
New Mexico Meadow Jumping Mouse	<i>Zapus hudsonius luteus</i>

This is an existing 2001 asphalt facility terminal and the transloading facility was constructed in June of 2014. There will be no new construction or new operations that will be implemented as a result of the issuance of this permit. The purpose of this permit is to establish operating parameters for this facility under applicable federal regulations pursuant to 40 CFR § 49.151-49.161. As such, EPA has concluded that issuance of the proposed synthetic minor NSR permit will have “No effect” on listed species or critical habitat.

Because the EPA has made a “No effect” determination, no further consultation with the USFWS and NMDGF is needed, and its obligations under Section 7 are complete.

XIII. NATIONAL HISTORIC PRESERVATION ACT (NHPA)

Section 106 of the NHPA requires EPA to consider the effects of this permit action on properties eligible for inclusion in the National Register of Historic Places. For purposes of the NHPA review, the Area of Potential Effect (APE) was determined to be approximately 25 acres of land within and adjacent to the footprint of the NuStar’s existing facility.

The purpose of this permit is to establish operating parameters for this facility under applicable federal regulations pursuant to 40 CFR § 49.151-49.161. There will be no new operations, construction activities or ground disturbances as a result of the issuance of this synthetic minor NSR permit. Further, the site has been subject to disturbances associated with previous construction and continued operational activities related to the asphalt industry and any archaeological resources would have been compromised long ago. Therefore, EPA Region 6 determines that the potential for location of archaeological resources within the facility footprint is low and issuance of the permit to NuStar will not affect properties potentially eligible for listing on the National Register.

In accordance with 36 CFR § 800.3(a)(1), EPA has determined that the proposed action does not have the potential to cause effects on historic properties, assuming that such properties were present. Thus, pursuant to this regulation, EPA has no further obligations under NHPA section 106 or 36 CFR Part 800.

XIV. ENVIRONMENTAL JUSTICE CONSIDERATIONS

The Region 6 implementation plan, required by Executive Order 12898 (February 11, 1994), was included in an EJ 2014 document and only requires an analyses for major NSR permitting actions. The NuStar permit is an existing minor source and the modifications for this source constitutes a minor NSR action. No further analyses is warranted by this permitting action.

XV. PERMIT PROCESSING PROCEDURES:

In accordance with 40 CFR§49.157:

- 1) EPA provided the draft permit and technical support document to the Permittee for review on 1-21-16.
- 2) Public Notice will be posted at the NuStar facility as well as in the Santo Domingo Pueblo Tribal Office and at the NuStar facility and will have a e-Notice on the Region 6 public website address at: <http://www.epa.gov/caa-permitting/tribal-nsr-permits-epas-south-central-region>
- 3) As indicated in Section XI, letters were sent on December 17, 2015 to the four adjacent tribes as well as 33 notifications were sent to tribes that may have had a historical interest in the area of the facility. EPA received 6 responses with none having specific comments on our evaluation as above.
- 4) An electronic version of the permit and all public documents associated with the permitting action is made available at: <http://www.epa.gov/caa-permitting/tribal-nsr-permits-epas-south-central-region>