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

SEP 1 9 2012

Ref: 8P-AR

Mr. Gabe Claypool
Chief Executive Officer
Dakota Plains, Inc.
294 Grove Lane East
Wayazata, MN 55391

Re: Dakota Plains, Inc. (Dakota Plains)
New Town Transfer Facility
Permit # SMNSR-TAT-000285-2012.001
Final Synthetic Minor NSR Permit

Dear Mr. Claypool:

The Environmental Protection Agency, Region 8 (EPA) has completed its review of Dakota Plains' request to obtain a synthetic minor New Source Review (NSR) permit pursuant to 40 CFR Part 49 for the modification of the New Town Transfer Facility. Based on the information submitted in Dakota Plains' application the EPA hereby issues the enclosed permit to construct. No comments were received during the 30-day public comment period. Therefore, the final permit will become effective on September 20, 2012.

Enclosed you will find the final Part 49 pre-construction permit for the modification of the New Town Transfer Facility. Please review each condition carefully and note any restrictions placed on this source.

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:
Joe Gillies, Environmental Director, Three Affiliated Tribes
Fred Fox, Energy Director, 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-000285-2012.001

Synthetic Minor Permit to Construct to establish volatile organic compound (VOC) emission limits to avoid Prevention of Significant Deterioration (PSD)and Title V (Part 71) permitting requirements with respect to VOC emissions.

Permittee:

Dakota Plains, Inc.

Permitted Facility:

New Town Transfer Facility
Crude Oil Transloading Operation on the
Fort Berthold Indian Reservation
Mountrail County, North Dakota

Summary

On March 28, 2012, the EPA received an application from Dakota Plains, Inc. (Dakota Plains) requesting approval to modify an existing crude oil "transloading" operation. A revised application was received on April 25, 2012. Dakota Plains requested approval to modify the facility by constructing a 90,000 barrel (bbl) hydrocarbon liquid storage tank, ten (10) truck loading stations at the storage tank, and thirteen (13) portable transloading units (for tanker truck to railcar transfers). EPA has approved this request.

Permit number:
SMNSR-TAT-000285-2012.001

Based on the potential uncontrolled emission estimates of the proposed modification, this facility would be subject to Prevention of Significant Deterioration (PSD) permitting. The applicant requested emission limitations that would limit the facility-wide emissions of volatile organic compounds (VOC) to levels below the thresholds that would have required them to obtain a Prevention of Significant Deterioration (PSD) pre-construction permit. Based on the requested VOC emission limit, Dakota Plains could also avoid Title V permit requirements under 40 CFR Part 71, provided that all other pollutants regulated under the Part 71 program are below the emissions thresholds and all other applicability criteria at §71.3(a) and (b) do not apply.

Potential uncontrolled emissions of VOC from the construction were estimated to be 1,034 tons per year (tpy). This final permit requires that a vapor balance control system be used with VOC emission control of 90.0% during transloading operations and an enclosed combustor be used during truck transfer and storage tank loading. In addition, the EPA is requiring the use of a closed vent system and enclosed combustor on the truck transfer stations with VOC emission destruction efficiency of at least 98.0% and a limit on the amount of crude oil that can flow through the facility in any given year to minimize VOC emissions at the facility. Potential uncontrolled emissions of all other regulated pollutants were estimated to be at concentrations below the levels that trigger PSD permitting requirements. Therefore, only limits for VOC emissions needed to be addressed in this permit. This approved final permit has an allowable VOC emission level of 97.0 tpy.

The EPA has determined that dispersion modeling for the proposed project was not necessary, because there do not appear to be any significant air quality concerns within the exterior boundaries of the Fort Berthold Indian Reservation. Additionally, operating emissions from the proposed facility will be well controlled at all times.

Table of Contents

I. Conditional Permit to Construct

A. General Information

Facility:	New Town Transfer Facility
Permit number:	SMNSR-TAT-000285-2012.001
SIC Code and SIC Description:	5171 – Petroleum Bulk Stations and Terminals

Site Location:
New Town Transfer Facility
NW ¼ NW ¼ Sec 21 T152N R92W &
N ½ NE ¼ Sec 20 T152N R92W
Fort Berthold Indian Reservation
Mountrail County, ND

Corporate Office Location
Dakota Plains, Inc.
294 Grove Lane East
Wayzata, MN 55391

The equipment listed in this permit shall be operated by Dakota Plains, Inc. at the following location:

Latitude 47.977678N, Longitude -102.476119W

B. Construction Approved

Dakota Plains, Inc. (Dakota Plains) currently owns and operates the New Town Transfer Facility, an existing transloading operation. The facility is located along the Canadian Pacific Railway, 800 feet south of the intersection of College Drive and Highway 23.

Dakota Plains has been given approval through this permit to modify the facility by constructing a 90,000 barrel (bbl) hydrocarbon liquid storage tank to provide interim storage capacity until the hydrocarbon liquid can be transloaded onto rail cars. VOC emissions from the new storage tank will be minimized using an internal floating roof system. In addition, Dakota Plains has been given approval to add ten (10) truck loading stations at the storage tank and thirteen (13) portable transloading units (for tanker truck to railcar transfers), in addition to the existing pumping systems mounted to the tanker trucks. The portable transloading units each consist of a loading arm, pumping, and metering systems. VOC emissions from the truck loading operation will be controlled using an enclosed combustor with a 98.0% minimum VOC destruction efficiency. VOC emissions from the transloading operations will be minimized using vapor balance controls with a minimum 90.0% VOC control efficiency.

C. Applicability

1. This Federal Permit to Construct is being issued under authority of 40 CFR 49.151, Federal Minor New Source Review Program in Indian Country (Minor NSR).

2. The requirements in this permit have been created, at the Permittee's request to establish legally and practically enforceable restrictions on VOC emission limits to avoid Prevention of Significant Deterioration (PSD) and Title V major source permitting requirements found at 40 CFR Parts 52 and 71, respectively.

3. 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 40 CFR Part 52 (PSD) or 40 CFR Part 49 (Federal Minor NSR) shall continue to apply.

4. 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 97.0 tons during any consecutive twelve (12) months.

2. Construction and Operational Limits

(a) The Permittee shall install no more than one 90,000 barrel (bbl) hydrocarbon liquid storage tank.

(b) The Permittee shall install no more than ten (10) truck transfer stations, each with a maximum capacity of 400 gallons per minute (gpm).

(c) The Permittee shall install no more than thirteen (13) portable transloading units, each with a maximum capacity of 400 gpm.

(d) Total hydrocarbon liquids transferred in transloading operations (tanker truck to railcar) shall not exceed 17,000,000 bbls in any consecutive 12-month period.

(e) Total hydrocarbon liquids transferred in storage tank loading (tanker truck-to-storage tank or to the storage tank from a gathering system or pipeline) shall not exceed 5,000,000 bbls in any give consecutive 12-month period.

(f) Total hydrocarbon liquids transferred in truck transfer operations (storage tank to tanker truck) shall not exceed 5,000,000 bbls in any consecutive 12-month period.

(g) 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 and Testing Requirements

(a) Total hydrocarbon liquid loaded to the storage tank, transferred to trucks, and transloaded to rail cars from the portable transloading units shall each be measured using liquid flow meters. When the pumping system mounted on a tanker truck is used in transloading operations, the total hydrocarbon liquid loaded to rail cars shall be measured by manual gauging of the liquid level in the railcar.

(b) The Permittee shall record the total volume of hydrocarbon liquids loaded, transferred, and transloaded at the end of each month, beginning with the first calendar month that permitted operations commence for each of the following operations:

i. Storage tank loading (from tanker trucks and pipelines);
ii. Truck transfers; and
iii. Transloading onto rail cars.

(c) Prior to twelve (12) full months of hydrocarbon liquid loading, transfer and transloading data, the Permittee shall, within seven (7) calendar days of the end of each month, add the volume for that month to the recorded hydrocarbon liquid loaded, transferred and transloaded for all previous months since permitted operations commenced and record the total for each. Thereafter, the Permittee shall, within seven (7) calendar days of the end of each month, add the volume of hydrocarbon liquid loaded, transferred and transloaded that month to the calculated volume from the preceding eleven (11) months and record a new twelve (12) month total for each.

(d) The Permittee shall conduct semiannual extended laboratory analysis of the crude oil received at the facility to obtain the actual physical and chemical properties of the hydrocarbon liquid and associated vapors to be used in calculating monthly VOC emissions.

4. VOC Emissions Calculations

(a) 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 permitted operations commence.

(b) Prior to twelve (12) full months of facility-wide VOC emissions calculations, the Permittee shall, within seven (7) calendars days of 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, within seven (7) calendars days of the end of each month, add the emissions for that month to the calculated emissions for the preceding eleven (11) months and record a new twelve (12) month total.

(c) VOC emissions from all controlled and uncontrolled emission sources at the facility shall be included in the monthly calculation, including, but not limited to: the hydrocarbon liquid storage tank, truck transfer stations, and transloading units.

(d) VOC emissions from each approved emitting unit shall be calculated as specified in this permit.

5. Recordkeeping Requirements

The Permittee shall maintain the following records:

(a) The actual monthly and rolling twelve (12) month facility-wide VOC total emissions, in tpy;

(b) The actual monthly and rolling twelve (12) month volume of crude oil transferred to the storage tank (from tanker trucks and pipelines);

(c) The actual monthly and rolling twelve (12) month volume of crude oil transferred to the tanker trucks;

(d) The actual monthly and rolling twelve (12) month volume of crude oil transfered to the rail cars;

(e) The results of each extended laboratory analysis of the hydrocarbon liquids received at the facility; and

(f) All input parameters and methodologies used to calculate the facility-wide monthly VOC emissions from each VOC emitting unit identified in 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 at the facility 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, during grading of roads, or during clearing of land;

ii. Application of asphalt, water, or other suitable chemicals on unpaved roads, materials stockpiles, and/or other surfaces located at the facility that can create airborne dust;

iii. The prompt removal from paved streets, located at the facility, 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 at a minimum once per week 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 observed, and the reasonable precautions taken to prevent continued fugitive dust emissions.

3. Recordkeeping Requirements

The Permittee shall maintain records for five 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 the Hydrocarbon Liquid Storage Tank

1. Installation and Operational Requirements

(a) The Permittee shall install, operate and maintain a hydrocarbon liquid storage tank with an internal floating roof and designed and operated as specified in 40CFR Part 60, Subpart Kb - Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984.

(b) The permittee shall install a piping system designed for submerged loading by either bottom loading or loading through a submerged fill pipe. The submerged fill pipe must be no more than twelve (12) inches from the bottom of the tank. The Permittee shall not conduct hydrocarbon liquid transfer to the storage tank unless submerged loading is used.

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 the storage tank with hydrocarbon liquid, 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 hydrocarbon liquids if one or more of the following are observed:

i. The internal floating roof is not resting on the surface of the hydrocarbon liquid 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 the hydrocarbon liquid tank 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. The total measured volume of hydrocarbon liquid transferred to the tank for the month; and
ii. The actual physical and chemical properties of the liquid and its associated vapors from the most recent semiannual extended laboratory analysis of the crude oil received at the facility.

3. Recordkeeping Requirements

(a) All exceedances of the hydrocarbon liquid storage tank loading (tanker truck-to-storage tank or to the storage tank from a gathering system or pipeline) limit specified in this permit.

(b) The Permittee shall document and maintain a record of the storage tank emission calculations, all inspections, and any repairs.

(c) 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 Truck Transfer Operations

1. Installation and Operational Requirements

(a) The Permittee shall install, operate and maintain a piping system designed for submerged loading by either bottom loading or loading through a submerged fill pipe. The submerged fill pipe must be no more than twelve (12) inches from the bottom of the tank and trucks. The Permittee shall not conduct truck transfer operations unless submerged loading is used.

(b) All VOC emissions from the each truck transfer stations at the facility shall be continuously controlled using closed-vent systems that routes vapors to an enclosed combustion device designed and operated to reduce the mass content of VOC emissions in the vapors by at least 98.0 %.

(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 maintained in a leak-free condition and connected and operating at all times a truck transfer event is occurring.

2. Closed-Vent Systems

The Permittee shall meet the following requirements for the closed-vent systems:

(a) Each closed-vent system shall route all VOC emissions from the truck transfer stations to the enclosed combustor required by this permit.

(b) All vent lines, connections, fittings, valves, relief valves, or any other appurtenance employed to contain and collect gases, vapors, and fumes and transport them to enclosed combustor shall be maintained and operated during any time the control equipment is operating.

(c) Each closed-vent system shall be designed to operate with no detectable emissions.

(d) If any closed-vent system contains one or more bypass devices that could be used to divert all or a portion of the gases, vapors, or fumes from entering the control devices, the permittee shall meet the one of following requirements for each bypass device:

i. At the inlet to the bypass device that could divert the stream away from the control device and into the atmosphere, properly install, calibrate, maintain, and operate a flow indicator that is capable of taking periodic readings and sounding an alarm when the bypass device is open such that the stream is being, or could be, diverted away from the control device and into the atmosphere; or

ii. Secure the bypass device valve installed at the inlet to the bypass device in the non-diverting position using a car-seal or a lock-and-key type configuration.

3. Enclosed Combustion Device

The enclosed combustion device shall be:

(a) Designed to have sufficient capacity to achieve at least a 98.0 % destruction efficiency for the minimum and maximum hydrocarbon mass flow routed to the device;

(b) Equipped with an automatic ignition system or continuous burning pilot;

(c) Equipped with a thermocouple, or similar temperature sensing device, to detect the presence of a pilot flame;

(d) Equipped with a continuous recording device, such as a chart recorder or similar device, to document the presence of a flame;

(e) Maintained in a leak-free condition; and

(f) Designed to minimize visible smoke emissions.

4. The Permittee shall follow the manufacturer's written operating instructions, procedures and maintenance schedule for the enclosed combustion device and closed-vent system, to ensure good air pollution control practices for minimizing emissions.

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

6. Testing and Monitoring Requirements

(a) Within 180 days after initial startup, and every five (5) years thereafter, during a truck transfer event, the Permittee shall conduct a performance test of the closed-vent system to demonstrate that it is operating in a leak free condition, and a performance test of the enclosed combustor to which emissions from the truck transfer stations are routed, to demonstrate at least 98.0% destruction efficiency. Testing of the closed vent system shall be conducted in accordance with EPA Reference Method 21, listed in 40 CFR Part 60, Appendix A. Testing of the enclosed combustor VOC destruction efficiency 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.

(b) During each performance test, the Permittee shall establish an emission factor, in terms of milligrams VOC per liter hydrocarbon liquid loaded (mg VOC/l), to be used for monitoring and recordkeeping requirements associated with demonstrating compliance with the facility-wide VOC emission limit.

(c) The Permittee shall monitor the closed-vent system during all truck transfer events, to confirm proper operation as follows:

i. Continuously ensure that the blower fan is operating at all times a truck transfer 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 truck transfer operations and repair the blower fan. Truck transfer operations shall not resume until the blower fan is repaired and operational.

(d) The Permittee shall monitor the enclosed combustor to confirm proper operation as follows:

i. Continuously monitor the pilot flame using a thermocouple, or other temperature sensing device, 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.

(e) VOC emissions from truck transfer operations for each calendar month shall be calculated using the following:

i. The VOC emission factor established during the most recent performance tests; and
ii. The total measured volume of hydrocarbon liquid transferred for the month (bbl).

7. Recordkeeping Requirements

The Permittee shall keep the following records for truck transfer operations:

(a) All exceedances of the hydrocarbon liquid truck transfer limit as specified in this permit.

(b) The site specific design input parameters provided by the manufacturer or vendor, and used to properly size the enclosed combustor to assure the 98.0 % minimum VOC reduction requirement in this permit and any instances in which any parameter was exceeded.

(c) Any instances in which the enclosed combustion device was bypassed or down in each calendar month during truck transfer operations, the reason for each incident, its duration, and the corrective actions taken or the preventative measures adopted to avoid such bypasses or downtimes.

(d) 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.

(e) Any instances in which the thermocouple, or other temperature sensing device, 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.

(f) 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 Transloading Operations

1. Installation and Operations Requirements

(a) The Permittee shall install, operate and maintain a piping system designed for submerged loading by either bottom loading or loading through a submerged fill pipe. The submerged fill pipe must be no more than twelve (12) inches from the bottom of the rail car. The Permittee shall not conduct transloading operations unless submerged loading is used.

(b) All VOC emissions from the transloading operations at the facility shall be continuously controlled using vapor balance control systems designed and operated to reduce the mass content of VOC emissions by at least 90.0 %. The Permittee shall not conduct transloading operations unless the vapor balance control system is used.

(c) Any planned release of vapor from the trucks following vapor balance during transloading operations prior to leaving the facility shall be controlled using an enclosed combustion device that is installed, operated, monitored, and tested as specified in the section labeled, **Requirements for Truck Transfer Operations**.

(d) The Permittee shall install, operate and maintain each vapor balance control system using the following design criteria:

i. All vapor connections and lines on the trucks and rail cars shall be equipped with closures that seal upon disconnect;
ii. The vapor line from the rail cars to the trucks shall be vapor-tight and liquid fill connections for all systems shall be equipped with vapor-tight caps. Vapor-tight means equipment that allows no loss of vapors; and
iii. The vapor balance control system shall be designed such that the pressure in the tank of the trucks does not exceed the maximum allowable tank pressure (design

pressure) of the truck during crude oil transfer to the rail car such that tank relief valves are not activated.

2. Monitoring Requirements

(a) The Permittee shall monitor each vapor balance control system to confirm proper operation as follows:

i. During each transloading event, the pressure in the tank of the trucks shall be measured to ensure that the tank design pressure is not being exceeded;
ii. During each transloading event, the vapor return lines shall be visually inspected for leaks. If a leak is detected, the permittee shall repair the leak prior to unloading the next truck using the same vapor return line; and
iii. On a quarterly basis and during a transloading event, the permittee shall ensure that the concentration at all potential leak sources on each transloading unit is not equal to or greater than 100% of the Lower Explosive Limit of the Bakken hydrocarbon liquids (LEL = 0.8% by volume) when measured with a combustible gas detector, calibrated with propane, at a distance of one (1) inch from each possible source.

(b) VOC emissions from the transloading operations for each calendar month shall be calculated using the following:

i. The total measured volume of hydrocarbon liquid transloaded for the month (bbl);
ii. The actual physical and chemical properties of the liquid and its associated vapors from the most recent semiannual extended laboratory analysis of the hydrocarbon liquid received at the facility;
iii. The monthly average temperature as determined from information available from the National Weather Service (NWS) Forecast Office in Bismark, ND;
iv. The procedure outlined in AP-42 Chapter 5.2, Transportation and Marketing of Petroleum Liquids for the actual method of transloading; and
v. The 90.0% vapor balance control efficiency, unless a leak in a vapor return line on any one transloading unit was visibly observed or measured during any one rail car transloading event; in which case, the vapor balance control efficiency shall be considered 0.0% for the actual measured volume of hydrocarbon liquid transloaded during that event.

3. Record keeping Requirements

The Permittee shall keep the following records for transloading operations:

(a) All exceedances of the hydrocarbon liquid transloading limit as specified in this permit.

(b) All instances where a leak was visually observed or tested during a transloading event, the corrective measures taken, and the volume of hydrocarbon liquid transloaded with the leaking vapor balance control system.

(c) The required vapor tight testing of each transloading unit and 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.

I. Records Retention

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

2. Records must be kept at the facility or the location that has day-to-day operational control over the facility.

J. Reporting

1. Any documents required to be submitted under this permit 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

2. The Permittee shall submit an annual report of rolling 12 month annual emissions each year no later than April 1st. The annual report shall cover the period for the previous calendar year. For the first calendar year the permittee shall submit the cumulative facility wide emissions.

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) Thirty (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 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.

4. The Permittee shall submit a report for any required performance test 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 a Minor NSR permit. This authorization is expressly conditioned as follows:

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

2. 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 ten (10) days in advance of any significant deviation from the permit application as well as any plans, specifications or supporting data furnished.

3. The issuance of this Permit to Construct 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. The Permittee shall comply with all conditions of this permit, including emission limitations that apply to the affected emissions units at the permitted source. Noncompliance with any permit term or condition is a violation of the 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. The Permittee shall take all reasonable precautions to prevent and or minimize fugitive emissions during the construction period.

6. The permitted source shall not cause or contribute to a NAAQS violation or, in an attainment area, shall not cause or contribute to a PSD increment violation.

7. Issuance of this permit does not relieve the Permittee, the owner, and/or operator of the responsibility to comply fully with all other applicable Federal and Tribal rules, regulations, and orders now or hereafter in effect.

8. 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. For proposed modifications, as defined at §49.152(d), that would increase an emissions unit's allowable emissions of a regulated NSR pollutant above its existing permitted annual allowable emissions limit, the Permittee shall first obtain a permit modification pursuant to 40 CFR Part 49 approving the increase. For a proposed modification that is not otherwise subject to review under

major NSR or under this program, such proposed increase in the annual allowable emissions limit shall be approved through an administrative permit revision as provided at §49.159(f).

10. At such time that a new or modified source at the permitted facility or modification of the permitted facility 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 otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of 40 CFR 52.21 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:* The 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 facility 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:* The 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 Part 2, Subpart B of Title 40 of the Code of Federal Regulations.

15. *Inspection and Entry:* The EPA or its authorized representatives may inspect the permitted facility 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 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 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:* This permit is effective immediately upon issuance unless comments resulted in a change in the draft permit, in which case the permit is effective 30 days after issuance. The Permittee may notify the EPA, in writing, that this permit or a term or condition of it is rejected. Such notice should be made within thirty (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.

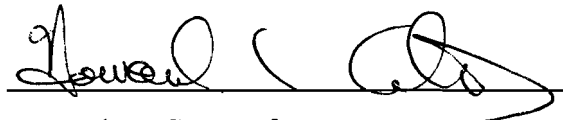
U.S. Environmental Protection Agency
Region 8 Air Permitting, Modeling, and Monitoring Unit
c/o Tribal Air Permitting, 8P-AR
1595 Wynkoop Street
Denver, Colorado 80202

18. *Invalidation of Permit:* This 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 Source to the EPA within 60 days of such date.

B. Authorization

Authorized by the United States Environmental Protection Agency, Region 8



9/19/12

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