Message

From: Rural Agricultural Defenders [info@radwv.org]
Sent: 8/17/2019 2:34:07 PM
To: Katheryn.d.emery@wv.gov
CC: Wright, Brad M [brad.m.wright@wv.gov]; Patel, Yogesh P [Yogesh.P.Patel@wv.gov]; Servidio, Cosmo [Servidio.Cosmo@epa.gov]; R3 RA [R3_RA@epa.gov]; Bodine, Susan [bodine.susan@epa.gov]; Kelley, Rosemarie [Kelley.Rosemarie@epa.gov]
Subject: Rockwool WVDEP Stormwater Permit #WVR108876

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Dear Acting Director Emery-Fultineer, Assistant Chief Inspector Wright, Engineer Chief Patel, Regional Administrator Servidio, Assistant Administrator Bodine, and Director Kelley:

I want to call your attention to the West Virginia Department of Environmental Protection (WVDEP) Stormwater Permit #WVR108876, currently under review for reissuance by the Division of Waste Water Management (DWWM). We contest Rockwool's permit re-issuance on two grounds:

1) The proposed new Limits of Disturbance (LOD) involve removing land once approved as within the LOD, but now said to have never been touched, then adding new acreage of land to be disturbed, such that the LOD limit stays just barely under the 100 acre limit; we believe Rockwool is pursuing this modification of the LOD in order to avoid triggering a public review. We have evidence that the site's LOD is more than 100 acres. As the disturbed areas now exceed 100 acres, the permit is no longer eligible for reissuance in the absence of a mandatory public comment and review process.

ACTION: The DWWM must confirm the actual Limits of Disturbance (LOD) with a site visit and inspection of the Rockwool construction site. An inspection by WVDEP will reveal what we know to be true, that Rockwool is disturbing more than 100 acres, and as such, the re-issuance process must take place with public review.

2) The timeline of site grading construction exceeds the regulatory limit of 1 year. This also triggers the required public review--a fact noted by the DWWM permit reviewer who on 7/19/2019 wrote: "Revise relative time of construction activities to include construction of proposed bioretention area. Check the box Yes since the grading phase of construction will last for longer than 1 year. The project will be sent out to public notice. If yes, you must fill out the Statement For Billing Form." Rockwool has filled out the form but refused to sign and notarize. Again, they are attempting to evade the required public review.

ACTION: The DWWM must not re-issue this permit without requiring Rockwool to sign and notarize the Statement for Billing Form, so the newspaper public notice can be posted and the 30 day review period commence.

Conclusion:

We insist that this permit accurately report the LOD and follow the protocols necessitated by a construction site of over 100 acres. This is a simple issue of properly acknowledging the true size of this project with an inspection and following WVDEP's own procedures for permitting a construction site. In addition, any effort to allow Rockwool to continue grading beyond then one year limit without a public review process violates the Clean Water Act's clear instructions to not allow state-issued NPDES permits to be less protective that federally-issued permits.

Therefore, please carry out the following actions:

1) Halt the permit re-issuance process until an on-site inspection can be made.
2) Have WVDEP personnel visit the site and inspect Rockwool's proposed LOD to confirm that it is, in fact, more than 100 acres.
3) Require that Rockwool sign and notarize the Statement of Billing form to commence the 30 day review period.
4) Require permit reissuance to proceed under the mandatory 30 day public comment period and review process, including the possible need for a public hearing.

Thank you for your consideration and we look forward to hearing how the WVDEP DWWM plans to proceed with this permit.

Sincerely,

Ex. 6 Personal Privacy (PP)

Concerned Citizen