To: Chow, Kevin[chow.kevin@epa.gov]
From: Lee, Jae
Sent: Tue 1/24/2017 5:14:23 PM
Subject: FW: Tradebe Draft Permit Renewal

FYI

See the email below from FQ

From: Lee, Jae
Sent: Monday, January 23, 2017 8:55 AM
To: Galbraith, Michael <Galbraith.Michael@epa.gov>
Cc: Valentino, Michael <valentino.michael@epa.gov>
Subject: RE: Tradebe Draft Permit Renewal

We have not met yet by face to face. Mostly emails and phone calls. Although they suggested the Chicago visit, but rather we would like to do a site visit after we review the response. So so far no face to face meeting yet.

Jae

From: Galbraith, Michael
Sent: Monday, January 23, 2017 8:45 AM
To: Lee, Jae <lee.jae@epa.gov>
Subject: Re: Tradebe Draft Permit Renewal

Jae - thanks for the quick response. Is it correct to say you plan on meeting with tradebe soon after they submit their response? Also, I can't remember if you already had a face to face meeting with them, like we did. I assume that you haven't, and communications with tradebe has been either by phone or in writing. Can you confirm that one way or another? Thanks!

Mike Galbraith
Permits Branch (5303P)
Program Implementation/Information Division
Office of Resource Conservation and Recovery
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

From: Lee, Jae
Sent: Monday, January 23, 2017 9:34 AM
To: Galbraith, Michael; Valentino, Michael; Cunningham, Michael; Setnicar, Mary
Cc: Atagi, Tracy; Kohler, Amanda; Elliott, Ross; Young, Jessica
Subject: RE: Tradebe Draft Permit Renewal

Mike,

The State RCRA permit was expired in December 2016. The State RCRA permit is attached.

For the renewal permit, I don't think State has a plan to include the (exempted) thermal units in the permit.

For the inspection status, I don't think we (the federal) have conducted any inspection after 2014 NEIC inspection. But the State might did. I will check this more with our enforcement program.

For Tradebe's response, they indicated that they would submit the response by mid-Feb or at least by the end of February.

For the state permit issuance date, I can ask out management to contact the IDEM for a possible postponement of the draft permit renewal.

Jae

From: Galbraith, Michael
Sent: Monday, January 23, 2017 8:06 AM
To: Lee, Jae <lee.jae@epa.gov>; Valentino, Michael <Valentino.Michael@epa.gov>; Cunningham, Michael <cunningham.michael@epa.gov>; Setnicar, Mary <Setnicar.Mary@epa.gov>
Cc: Atagi, Tracy <Atagi.Tracy@epa.gov>; Kohler, Amanda <Kohler.Amanda@epa.gov>; Elliott, Ross <Elliott.Ross@epa.gov>; Young, Jessica <Young.Jessica@epa.gov>
Subject: Re: Tradebe Draft Permit Renewal

Jae, as promised, below is ETC's legal rationale for filing a citizen suit which was communicated to us last week.

Can you please let us know when Tradebe's permit expires (or when it already expired), and whether there was a more recent inspection at the site, either by epa or the state, subsequent to the neic inspection in November of 2014?

Can you also provide us a copy of their existing rcra permit (you previously sent me their title v permit - I don't recall seeing their rcra permit - my apologies if you aleady provided that)

thanks!

"RCRA Section 3007 requires the Administrator or authorized state "to thoroughly inspect every facility for the treatment, storage, or disposal of hazardous waste for which a [RCRA] permit is required" at least every two years. RCRA uses the word "shall" which makes this inspection requirement a mandatory, non-discretionary duty. Upon information and belief, EPA has not conducted a RCRA inspection of the thermal desorption units (TDUs), nor has the State of Indiana.

In addition, RCRA Section 3005 requires a permit for the thermal treatment and disposal of hazardous wastes in the TDUs, and the regulatory exemption for recycling units does not apply. Because the facility does have a RCRA permit for its other hazardous waste activities, but not for thermal treatment and destruction of hazardous wastes in the TDUs, the Administrator also has a non-discretionary duty to revoke the facility's RCRA permit. RCRA Section 3005(e) provides: "Upon a determination by the Administrator … of noncompliance by a facility having a permit under this chapter with the requirements of this section …, the Administrator … shall revoke such permit." The facility is in noncompliance with the requirements of RCRA section 3005 to obtain a RCRA permit for operation of the TDUs or to include the TDUs within its current permit. RCRA Section 3005(e) uses the word "shall" which makes permit revocation a mandatory, non-discretionary duty.

EPA can satisfy its non-discretionary duties under RCRA by conducting a thorough inspection of the TDUs' operations and including the TDUs within the facility's current or renewed RCRA permit. We believe the facility's RCRA permit is scheduled for renewal this year."

Mike Galbraith
Permits Branch (5303P)
Program Implementation/Information Division
Office of Resource Conservation and Recovery
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

From: Galbraith, Michael

Sent: Monday, January 23, 2017 7:39 AM
To: Lee, Jae; Valentino, Michael; Cunningham, Michael; Setnicar, Mary
Cc: Atagi, Tracy; Kohler, Amanda; Elliott, Ross; Young, Jessica
Subject: Re: Tradebe Draft Permit Renewal

thanks Jae. I assume the draft permit currently does not cover the thermal aspects of their operations - is that correct?

Also, I thought tradebe said no later than march 7 - did that change?

Yes, please ask idem to hold off issuing the permit until we figure things out. ETC is continuing to say they will file a lawsuit (i'll send you an email summarizing the legal rational that they communicated to us last week).

We are meeting with OGC on Wednesday to get them up to speed on everything, and will be updating our office director today or tomorrow as well.

If there are any other updates we should know about, please let us know. Thanks!

Mike Galbraith
Permits Branch (5303P)
Program Implementation/Information Division
Office of Resource Conservation and Recovery
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

From: Lee, Jae
Sent: Thursday, January 19, 2017 5:10 PM
To: Galbraith, Michael; Valentino, Michael; Cunningham, Michael; Setnicar, Mary
Subject: FW: Tradebe Draft Permit Renewal

IDEM informed us that they are planning to issue tentatively a draft permit to Tradebe in February 2017.

As I indicated before, Tradebe would submit their response for our information request in middle February.

Should we ask the IDEM to hold on their draft permit issuance until we would come up a certain determination for the exemption issue?

Jae

From: JEAN, RUTH [mailto:RJEAN@idem.IN.gov]
Sent: Thursday, January 19, 2017 10:19 AM
To: Lee, Jae <lee.jae@epa.gov>
Subject: Tradebe Draft Permit Renewal

I am tentatively planning to issue Tradebe's Draft Permit Renewal by the end of February 2017. I will let you know if we are significantly delayed.

Thanks,

Ruth

Ruth A. Jean
Senior Environmental Manager
IN Dept. of Environmental Management
Office of Land Quality
Hazardous Waste Permit Section

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