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November 17, 2014



U.S. Environmental Protection Agency
ATTN: Karen A. Sterrett 6SF-PR/SEE
Superfund Division, Prevention & Response Branch
1445 Ross Avenue
Dallas, Texas 75202-2733

RE: Comments on Removal Administrative Record File for Bluewater Radiological Superfund Site, Cibola County, New Mexico

Dear Ms. Sterrett:

This office represents NGL Crude Terminals, LLC ("NGL Crude"), which is developing a crude oil transloading terminal in the Village of Milan, Cibola County, New Mexico. The terminal will transfer crude oil from trucks onto railcars for transport to other locations. Throughout Texas and Oklahoma, NGL Crude has constructed a number of terminals similar to the 40-50 million dollar project to be located in the Village of Milan. The NGL Crude project ("Project") is anticipated to provide a significant boost to the local economy and, based on a number of economic development incentive hearings conducted by the village to date, enjoys enthusiastic local support.

As NGL Crude understands it, the Project is located at least 3 miles from the removal action planned by the EPA that is the subject of the Removal Administrative Record File for Bluewater Radiological Superfund Site, of which notice was given September 5, 2014 in the Cibola Beacon. NGL Crude does not object to the proposed removal action and did not submit comments on it to the EPA during the 30 day comment period following the notice, which we understand has not been extended. We also understand that no subsequent public comment period has been set.

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However, we are aware of comments submitted to the EPA by Thomas S. Lee of Bryan Cave, LLP on behalf of a local landowner (hereafter "BC Comments"). Because the BC Comments address the Project, we feel it prudent to provide you with some clarification and additional information regarding the concerns raised. In addition to the comments below, please see the attached Technical Response to the BC Comments.

The BC Comments do not appear to contain comments on the removal action, but rather they are a "back-door" attack on the Project, made under the *guise* of comments on the removal action. The concerns described in the BC Comments relate only to the activities of the Project, not those of the removal action. As an example, the BC Comments state that the potential for contaminated dust transport "should have been studied, understood and mitigated, before the Village approved the NGL project to move forward, and this it remains an open question." BC Comments at p. 5. This is not a criticism of EPA or the proposed removal action, but of the Village of Milan and/or NGL Crude.

The concerns given in the BC Comments have as a main, but incorrect, premise that contaminated dust and soil is present on the Project property. *See* BC Comments at pp. 5-6. As may be seen by the Technical Response to Comments attached to this letter, such is not the case. Further, the BC Comments suggest that a flood would spread contamination from the mill tailings and other off site contamination and that "[t]his issue should have been considered by the Village of Milan as well as State and Federal environmental and energy agencies prior to approving the NGL project..." BC Comments at p. 6. Again, this is not a criticism of or other comment on the proposed removal action. The attached Technical Response to Comments address the stated concerns as to stormwater and floodplain.

The groundwater contamination concerns given in the BC Comments urge that the Project and other major industrial development in the Milan area be deferred until a "workable remediation strategy" for groundwater contamination in the area has been implemented. *See* BC Comments at p. 8. The BC Comments urge this even though it is acknowledged that remediation of existing groundwater contamination (off of the Project site) is ongoing and even though the author is uncertain of the groundwater sources to be used for the Project. *See* BC Comments at p. 8. The BC Comments are also uncertain as to the "environmental impact of construction-related soil disturbances . . . in light of widespread and ongoing regional groundwater contamination." BC Comments at p. 8. NGL Crude suggests that such impact is minimal, does not justify a delay in the Project and certainly does not constitute a criticism of the proposed removal action. The attached Technical Response to Comments summarizes the steps the Project plans to take with respect to groundwater protection.

Finally, the BC Comments suggest that the Project has not considered the potential impacts of the terminal on threatened and endangered species and that NGL Crude may need to consult with the U.S. Fish and Wildlife Service. The attached Technical Response to Comments describes the steps that have been and will be taken as to threatened and endangered species.

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

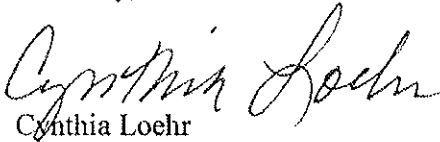
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NGL Crude sincerely hopes that this information assists the EPA in responding to the BC Comments and any others that may pertain to the Project as part of the administrative process for the proposed removal action. Please feel free to contact me or the Project Manager, Greg Staff, at (713) 496-3928 should any questions arise.

Sincerely,



Cynthia Loehr

cc: Greg Staff, NGL-EP Project Manager (via email)

ATTACHMENT

TECHNICAL RESPONSE TO COMMENTS

The comments of Bryan Cave, LLP dated October 1, 2014 ("BC Comments") are summarized below and NGL Crude Terminals, LLC's responses follow each summary.

BC Comment 1: Dust and Air Quality - The soils on the facility are potentially contaminated with radioactive materials and construction of the facility may cause airborne dust that could be deposited at nearby residences.

Response: A Phase II Environmental Site Assessment commissioned by the NW New Mexico Council of Governments and prepared by Daniel B. Stephens & Associates (dated September 27, 2012) analyzed 27 soil samples from the project site for uranium and selenium. None of the samples contained concentrations of uranium or selenium greater than the laboratory method detection limits (MDLs). An additional 27 soil samples were analyzed for the presence of radium-226 and radium-228. The results indicate concentrations less than 2 picocuries per gram (pCi/g), which is within the range of typical background concentrations for the area. Based on these results, the concentration of radioactive materials contained in the soil will not cause or contribute to adverse health effects at nearby residences.

To further ensure that airborne dust will not create a health issue during construction, NGL has developed a fugitive dust suppression plan for construction activities to mitigate potential airborne dust during construction. This plan is not required by any law, regulation, or agency. NGL has developed the plan to minimize any impacts caused by fugitive dust on nearby properties.

NGL has also prepared and submitted an air quality permit application as required by the New Mexico Environment Department (NMED) for construction of the facility. This application includes a dispersion modeling study that demonstrates that the facility will not cause or contribute to exceedances of the applicable air quality standards set by the NMED and the U.S. EPA.

BC Comment 2: Stormwater and Floodplain Development - Construction disturbance of the NGL site could increase the spread of potentially contaminated fine particles to the homes and businesses of the surrounding Milan area.

Response: As a crude oil transmission facility, the facility is exempt from obtaining a stormwater permit for construction and operations under Section 402 of the Water Quality Act of 1987 and Section 323 of the Energy Policy Act of 2005. Regardless of the outcome of this determination, NGL has developed a stormwater management plan that incorporates accepted stormwater management practices to minimize erosion and migration of fine particles during construction and operation of the facility.

BC Comment 3: Groundwater Contamination— The NGL project may have the potential to exacerbate existing groundwater contamination.

Response: In addition to the stormwater management plan, NGL is also developing a Spill Prevention, Control, and Countermeasures (SPCC) and Facility Response Plan (FRP) per U.S. EPA requirements to mitigate the impacts of potential spills to the area. These three plans ensure that the operation of the facility will be conducted in a manner that will minimize impacts

to groundwater. The Village of Milan has agreed to provide access to one of its wells for the project.

BC Comment 4: Threatened and Endangered Species - There is no evidence that either the Village or NGL considered the potential impacts the proposed "crude-by-rail" terminal would have on endangered species.

Response: No consultation with the U.S. Fish and Wildlife Service related to the Endangered Species Act is required for this project. However, NGL conducted a desktop review to determine the potential impact of the project to threatened or endangered species in the project area, and an on-site investigation will ensue shortly. The U.S. Fish and Wildlife Service (FWS) listed six (6) species as either federally-listed threatened or endangered within Cibola County, including the Mexican spotted owl, the Southwestern willow flycatcher, the Yellow-billed Cuckoo, the Zuni Bluehead Sucker, the Pecos sunflower, and the Zuni fleabane. NGL examined the parcel for evidence of these species, or critical habitat that would attract these species. The analysis concluded that the parcel does not contain evidence of these species, nor the critical habitat that would support or attract these species. Therefore, there is no expected impact on the threatened or endangered species that are listed for Cibola County.