



Request for Coverage under the General Air Quality Permit for New or Modified Minor Source Stone Quarrying, Crushing and Screening Facilities in Indian Country

Technical Support Document

Permittee: CPM Development Corporation
P.O Box 3366
Spokane, Washington 99220

Project Name: CPM Development Corporation – Pendleton Mission Quarry

Location: Pendleton Mission Quarry
73569 McKay Lane
Pendleton, Oregon 97801
Umatilla Indian Reservation
Latitude: 45.672646° N; Longitude: 118.729006° W

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Permit #: R10TNSR02900

Background

The Clean Air Act provides the U.S. Environmental Protection Agency with broad authority to protect air resources throughout the nation, including air resources in Indian Country. In 2011, the EPA finalized the Tribal New Source Review (NSR Rule), codified at 40 CFR Part 49, as part of a Federal Implementation Plan to protect tribal air resources from impacts due to the construction of new or modified stationary sources of air pollutants where there is no EPA-approved NSR program. 76 Fed. Reg. 38748 (July 1, 2011). Among other requirements, the Tribal NSR Rule set forth procedures and terms under which the Agency would administer a minor NSR permitting program in Indian Country.

As part of the Tribal NSR Rule, the EPA adopted the option of developing general permits for certain categories of minor sources to which the Tribal NSR Rule would apply. See 40 CFR 49.156. The purpose of a general permit is to provide for the protection of air quality while simplifying the permit issuance process for similar facilities to minimize the burden on the reviewing authority and the regulated sources. The EPA finalized the General Air Quality Permit for New or Modified Minor Source Stone Quarrying, Crushing and Screening Facilities (SQCS General Permit) in Indian Country effective June 1, 2015 (80 Fed. Reg. 25068 (May 1, 2015)). New and modified minor sources that are true minor sources or major sources seeking to become synthetic minor sources may apply for coverage under the SQCS General Permit if the potential to emit for new, modified, and existing units is below major source thresholds and the source can meet the throughput limits and other terms and conditions set forth in the General Permit. Sources seeking coverage under this General Permit must also demonstrate that they meet certain additional eligibility criteria.

This Technical Support Document (TSD) describes EPA Region 10's analysis of the Applicant's Request for Coverage for the Project and our determinations concerning this request.

Request for Coverage under SQCS General Permit

On November 24, 2020, EPA Region 10 received an official Request for Coverage under the SQCS General Permit from CPM Development Corporation to construct and operate a SQCS facility synthetic minor source on the Umatilla Indian Reservation (the Project). The request included one location, the Pendleton Mission Quarry, which is within the exterior boundaries of the Umatilla Indian Reservation in Oregon. Additional information was requested by EPA Region 10 on December 21, 2020, February 2, 2022, and February 24, 2022, and received on May 11, 2021, February 17, 2022, and March 14, 2022, respectively. An email from Fish and Wildlife Services in support of the Endangered Species Act assessment, was received on March 15, 2022. CPM Development Corporation may co-locate the SQCS plant with a hot mix asphalt (HMA) plant. The HMA plant that will be co-located with the SQCS plant has been authorized to operate under a separately-issued permit, as explained below. CPM Development Corporation is considered the "Applicant" and the "Permittee" for the Project.

Approval of Request for General Permit Coverage

Based on a review of and reliance on all the information and representations provided in the Request for Coverage and other relevant information, EPA Region 10 has determined that the Project qualifies for coverage under the SQCS General Permit because it meets all the required criteria. In particular, and as further described below:

- The Project is for a synthetic minor SQCS plant that only processes nonmetallic materials with a combination of crushers and screens and is located within Indian Country.
- The Project is located in an attainment, unclassifiable or attainment/unclassifiable area for all National Ambient Air Quality Standards (NAAQS) pollutants.
- The Project will be co-located with a HMA plant and will comply with conditions 16 and 19.e of the SQCS General Permit to limit combined emissions of regulated NSR-regulated pollutants to less than 100 tons per year.
- The Applicant has met the eligibility criteria related to federally-listed species/habitats and has completed the screening process for historic properties.
This Approval and the SQCS General Permit authorize the Permittee to operate the Project within the exterior boundaries of the Umatilla Indian Reservation at the location described on page 1 of this TSD (Pendleton Mission Quarry).

Project Description

CPM Development Corporation proposes to construct (locate) and operate a portable SQCS plant at the Pendleton Mission Quarry. The Pendleton Mission Quarry is a previously used quarry. The proposed SQCS plant is restricted to only previously disturbed portions of the quarry. Surface and mineral rights and the quarry are all owned by CPM Development Company. A concrete batch plant and an HMA plant are currently located at this quarry. The SQCS plant will be co-located with and supply most of its crushed rock to the HMA plant at this site. The HMA plant has an existing permit with co-location requirements issued under EPA's Federal Air Rules for Reservations. The SQCS plant has a design capacity of 250 tons per hour of crushed rock (see the emission unit descriptions below).

CPM Development Corporation SQCS Plant List of Affected Emission Units

ID #	Description of Affected Emission Units	Controls
CR1	Primary Crusher: Cedar Rapids Jaw; manufactured 1994; 550 tons/hour capacity	Water spray
CR2	Secondary Crusher: Gator Impactor; manufactured 2014; 550 tons/hour capacity	Water spray
S1	Screen: Terex/Cedar Rapid Screen; 550 tons/hour capacity	Water spray
L1	Loader: CAT Loader 980M; manufactured 2017 250 tons/hour capacity	Water spray
C1	Conveyor: Spomac - under jaw; 550 tons/hour capacity	Water spray
C2	Conveyor: Spomac - screen feed; 550 tons/hour capacity	Water spray
C3	Conveyor: Spomac – under screen; 550 tons/hour capacity	Water spray
C4	Conveyor: Spomac – under impact; 550 tons/hour capacity	Water spray
C5	Conveyor: Spomac – recirculation loop; 550 tons/hour capacity	Water spray
C6	Conveyor: Spomac – Pay 1; 550 tons/hour capacity	Water spray
C7	Conveyor: Spomac – Pay 2; 550 tons/hour capacity	Water spray
C8	Conveyor: Spomac – Pay 3; 550 tons/hour capacity	Water spray
C9	Conveyor: Spomac – scale belt; 550 tons/hour capacity	Water spray
C10	Conveyor: Spomac – cross conveyor; 550 tons/hour capacity	Water spray
C11	Conveyor: Spomac – chip conveyor; 550 tons/hour capacity	Water spray
C12	Conveyor: Spomac – stacker; 550 tons/hour capacity	Water spray
G1	Generator: CAT SR4B internal combustion engine; 1105 hp capacity; diesel fired; model year 2007	None
G2	Generator: Backup Genset internal combustion engine; 1105 hp capacity; diesel fired	None
G3	Generator: Rental for heaters internal combustion engine; 65 hp capacity; diesel fired	None
T1	Diesel Storage Tank: 600 gallons distillate fuel oil for use in portable, non-road generator	None

Ambient Air Quality

The geographic area where the Project will be located is designated attainment or attainment/unclassifiable under the CAA for all NAAQS pollutants. The SQCS General Permit contains limits on emissions and operations sufficient to ensure that the SQCS plant is not a major source and to ensure that emissions would not cause or contribute to a violation of any NAAQS. EPA Region 10 does not have reason to be concerned that operation of the operations in compliance with the general permits would cause or contribute to a NAAQS or PSD increment violation. EPA Region 10 therefore believes that the SQCS General Permit is appropriately protective of the NAAQS.

Regarding high ambient pollution levels caused by wildfires during the road construction season, NAAQS violations attributed to wildfires may qualify as exceptional events and be excluded in determining attainment of the NAAQS under EPA’s Exceptional Event Rule (40 CFR 50.14).

Nonetheless, the EPA has the authority to address emissions detrimental to public health and welfare under the Federal Air Rules for Reservations (FARR) and under the CAA. Under 40 CFR 49.137, if the EPA determines that air pollutants are approaching, or have reached, levels that could lead to a threat to human health, the agency is authorized to declare air pollution alerts, warnings or emergencies. During an air pollution warning or air pollution emergency, the EPA may issue an order to any air pollution source requiring such source to curtail or eliminate the emissions. The agency also has the authority to issue an order pursuant to Section 303 of the CAA to require an owner or operator to immediately reduce or cease the emission of air pollutants that are presenting an imminent and substantial endangerment to public health or welfare or to the environment.

Emissions

A source in an attainment area must obtain a major source construction permit if its emissions of regulated NSR pollutants will be greater than 100 tons per year for listed source categories and 250 tons per year for non-listed categories. A source in an attainment area must obtain a major source operating permit if its emissions will be greater than 100 tons per year for regulated pollutants and 250 tons per year for PM. A source must obtain a minor NSR permit if its emissions are less than the major source construction permitting thresholds, but more than the minor NSR permitting thresholds in the table below. Permit limitations, also called synthetic minor limits, are considered in determining whether a source will be a major source.

Tribal Minor NSR Permitting Thresholds (tons per year)

Pollutant	Nonattainment Areas	Attainment Areas
CO	5	10
NO _x	5	10
SO ₂	5	10
VOC	2	5
PM	5	10
PM ₁₀	1	5
PM _{2.5}	0.6	3
Lead	0.1	0.1
Fluorides	NA	1
Sulfuric acid mist	NA	2
Hydrogen sulfide	NA	2
Total reduced sulfur	NA	2
Reduced sulfur compounds	NA	2

A new or modified source that is required to obtain a minor NSR permit may qualify for coverage under a minor NSR general permit in lieu of obtaining a site-specific permit. To qualify for the General Permit, the new or modified source must meet the eligibility criteria in the Request for Approval (see the Approval of Request for General Permit Coverage section above) and be able to comply with the limitations in the General Permit. If a new or modified source does not meet the specified criteria or

cannot comply with the limitations in the General Permit, the source does not qualify for coverage under the General Permit and must apply for a site-specific minor NSR permit or other applicable NSR permit. The SQCS General Permit includes enforceable physical or operational limitations on the maximum capacity of the source to emit air pollutants, including air pollution control equipment and restrictions on the type or amount of material combusted, stored or processed. The permit is designed to ensure emissions remain below the major source construction and operating permit thresholds. The SQCS General Permit also includes restrictions designed to limit emissions below the major source permitting thresholds. When an SQCS plant is co-located (two operations functioning as one source at the same location) with a HMA plant, emissions from both sources must be totaled to determine the applicable permitting program. The general permit includes special limitations that apply to co-located sources to ensure that the total emissions from both operations are less than the major source permitting thresholds.

The potential emissions contained in the table below are based on the material throughput limits and fuel consumption limitations for co-located HMA plants and SQCS plants that are specified in general permits and assume compliance with those limitations. For more information about how these emissions were calculated, please see the Background Document: General Air Quality Permit for New or Modified Minor Source Stone Quarrying, Crushing and Screening Facilities in Indian Country at <https://www.epa.gov/tribal-air/5-source-categories-stone-quarrying-crushing-and-screening-facilities-final-rule>.

SQCS & HMA Plant (Controlled) Potential to Emit Summary

Process	Pollutant (tons/year)						
	PM	PM ₁₀	PM _{2.5}	SO ₂	NO _x	CO	VOC
SQCS & HMA Source-wide Emission	86	63	30	18	90	78	27

Listed Species-Related Eligibility Criteria

The EPA developed eligibility criteria related to species that are listed as endangered or threatened under the federal Endangered Species Act that applicants must satisfy to qualify for coverage under the SQCS General Permit. Appendix A to the Request for Coverage form for the SQCS General Permit provides detailed screening procedures for applicants to follow to assess the potential impacts of their sources on federally-listed species and their critical habitat. To be eligible for coverage under a General Permit, sources must demonstrate that they have satisfactorily completed the screening procedures and that they meet one of the species-related eligibility criteria, provide sufficient documentation supporting the criterion selected and obtain confirmation from the EPA that they have done so.

The Applicant’s Request for Coverage states that the Project meets Criterion B of Appendix A and included (a) maps of the project area; (b) the U.S. Fish and Wildlife Services (USFWS) website-produced list of threatened and endangered species that may occur in the proposed project location, and/or may be affected by this proposed project; and (c) a letter from Oregon Fish and Game. The USFWS website identified three threatened, endangered, or candidate species (Gray Wolf *Canis lupus* – endangered; Yellow-billed Cuckoo *Coccyzus* - threatened; Bull Trout *Salvelinus confluentus* – threatened).

The project meets Criterion B if federally-listed threatened or endangered species or their designated critical habitat(s) are likely to occur within the action area of the Project, but the construction and

operation of the Project is not likely to adversely affect listed threatened or endangered species or critical habitat. The selection of Criterion B may include consideration of any air pollution controls or other changes to the construction and/or operation of the Project that the permittee will adopt to ensure that the Project is not likely to adversely affect listed species or critical habitat.

After review and consideration of this information, EPA Region 10 agrees that the Applicant has completed the species-related screening procedures and has demonstrated by providing the appropriate information and documentation that the proposed Project meets Criterion B of the listed species-related eligibility criteria for coverage under the SQCS General Permit. Per Appendix A of the Request for Coverage, this SQCS plant would meet Criterion B because the listed species and/or critical habitats are likely to exist in the area, but the Project is not likely to adversely affect listed species or habitat.

Historic Properties-Related Eligibility Criteria

The EPA engaged in the National Historic Preservation Act (NHPA) Section 106 process when the General Permit was issued. Requests for approval under the General Permit are not subject to NHPA Section 106 but are subject to the NHPA screening requirements in Appendix B of the Request for Coverage. The EPA developed the screening process in Appendix B of the Request for Coverage to enable source owners/operators to appropriately consider the potential impacts, if any, resulting from the construction, modification, and/or operation of a new or modified emission source on historic properties that are either listed on or eligible for listing on the National Register of Historic Places and, if applicable, determine whether actions can be taken to mitigate any such impacts. To be eligible for coverage under the SQCS General Permit, sources must demonstrate that they have satisfactorily completed the screening procedures and that they meet one of the historic property-related eligibility criteria, provide sufficient documentation supporting the criterion selected and obtain confirmation from the EPA that they have done so.

With respect to the Project, the Applicant indicated in the Request for Coverage that the screening process in Appendix B of the Request for Coverage form had been completed to determine if the construction, modification or operation of the Project has the potential to cause effects to historic properties. The Request for Coverage indicated that no historic properties would be affected by the Project. On December 16, 2020, the Tribe's Tribal Historic Preservation Officer (THPO) raised a concern that the application did not accurately reflect all the historic properties that are located near the proposed source and that if the Applicant updated their application, they would concur with a no adverse effect to historic properties conclusion. On the Umatilla Indian Reservation, the THPO is the lead for the historical preservation program. On May 5, 2021, the Applicant submitted a revised application that more accurately reflected the locations of the Tribe's historic properties near the proposed source. EPA Region 10 has concluded that the Project meets the historic property-related eligibility criteria "no historic properties affected" and that the Project is consistent with the historic property-related eligibility criterion for coverage under the SQCS General Permit.

Environmental Justice

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies and activities on minority populations and low-income populations in the United States.

The EPA believes the human health or environmental risk associated with this action will not have disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations. The EPA's primary goal in developing the SQCS General Permit was to ensure that air resources in Indian Country will be protected in the manner intended by the CAA. The SQCS General Permit will limit adverse impacts by restricting operations and emissions. In addition, the SQCS General Permit is part of a flexible preconstruction permitting program for minor sources in Indian Country that is comparable to similar programs in neighboring states and creates a more level regulatory playing field for owners and operators within and outside of Indian Country. The SQCS General Permit reduces an existing disparity by filling the regulatory gap.

As explained above, the general permit was designed to be protective of the NAAQS; therefore, EPA Region 10 believes that the SQCS General Permit is appropriately protective of the NAAQS with respect to this Project. Compliance with the NAAQS is emblematic of achieving a level of public health protection that demonstrates that a proposed facility will not have a disproportionately high and adverse human health or environmental effects on minorities or low-income populations. See, e.g., *In re Shell Offshore Inc.*, 13 E.A.D. 357, 404-5 (EAB 2007).

Tribal Consultation

The applicant sent an electronic copy of the SQCS plant application and supporting information to the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) Tribe staff from the Natural Resources and Planning sections on November 24, 2020. EPA Region 10 forwarded an electronic copy to Tribal fisheries and wildlife staff on August 7, 2020. Additional information was shared with the tribal staff as it was received. EPA Region 10 sent (electronically) a letter to the Chairman of the CTUIR Board of Trustees on December 17, 2020, offering consultation on this permitting action. The CTUIR did not request formal Government to Government consultation regarding the Project.

On May 11, 2021, Tribal environmental department staff informed EPA Region 10 that they had concerns about the project's storm water run-off because the site had experienced flooding in the past year and was believed to have inadequate berming to contain the water. To address this concern, the Applicant applied for and obtained a Multi-Sector General Permit (MSGP) from EPA Region 10's National Pollutant Discharge Elimination System (NPDES) program on January 09, 2022 (NPDES ID ORR05IA01). A Stormwater Pollution Prevention Plan (SWPPP) has been created for the construction project and coverage under the approved EPA discharge permit includes coverage for the site since the crushing operation is specific to the construction project. Best Management Practices will be installed in accordance with the SWPPP to ensure compliance with the permit and to protect water quality. In regards to the berming concern, the applicant stated that the flood waters had occurred upstream of the

site and subsequently flowed through the site before re-entering the river at a point past the property. As a result of this, no changes had been proposed to alter the berms.

On December 12, 2021, Tribal environmental department staff informed the EPA, Region 10 of an additional concern regarding the crushing of recycled concrete. To address this concern, the EPA, Region 10's air permitting program contacted and inquired with the Resource Conservation and Recovery Act (RCRA) enforcement program to obtain clarification on the question of the potential for types of hazardous material that could be crushed on this site. The response received indicated that any material that does contain hazardous contents is required to be tracked by the generator of the material and that material is tracked from 'cradle to grave'. The Tribal staff was given the contact information for a senior RCRA enforcement engineer in case there were any additional questions or concerns.

Public Participation

As described in 40 CFR 49.157, issuance of general permits pursuant to the Tribal NSR Rule must meet public participation requirements. Before issuing a permit under the Tribal NSR program, the EPA must prepare a draft permit and must provide adequate public notice to ensure that the affected community and the general public have access to the draft permit information. The public notice must provide an opportunity for a 30-day public comment period and notice of a public hearing, if any, on the draft permit. Consistent with these requirements, during the development of the proposed SQCS General Permit, the EPA followed the applicable public participation process and received numerous comments. The EPA considered and addressed these comments in its issuance of the final SQCS General Permit (See 80 Fed. Reg. 25068 (May 1, 2015)).

In contrast, a 30-day public comment period under 40 CFR 49.157 is not required for an approval of a request for coverage of a particular source under a General Permit. The EPA, Region 10 posted the request for coverage on its website on November 23, 2020, prior to the issuance of any decision to approve or deny the request for coverage and requested the public to submit any concerns about the applicant's eligibility to construct under the General Permit. The EPA, Region 10's air permits website can be found at: <https://www.epa.gov/caa-permitting/caa-permitting-epas-pacific-northwest-region>.

The EPA, Region 10's Approval of the Request for Coverage for the Project is a final agency action for purposes of judicial review only for the issue of whether the Project is eligible for coverage under the SQCS General Permit (see 40 CFR 49.156(e)(6)). Any petition for review of this approval action must be filed in the United States Court of Appeals for the appropriate circuit pursuant to CAA section 307(b).