



Air Quality Permitting Response to Public Comments

May 3, 2013

Tier I Operating Permit No. T1-2010.0155

**Bannock County Solid Waste Department, Fort Hall Mine
Road Landfill
Pocatello, Idaho**

Facility ID No. 005-00062

Prepared by:
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AIR QUALITY DIVISION

Final

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BACKGROUND

The Idaho Department of Environmental Quality (DEQ) provided for public comment on the draft Tier I operating permit to Bannock County Solid Waste Department, Fort Hall Mine Road Landfill from March 25, 2013 through April 24, 2013, in accordance with IDAPA 58.01.01.364. During this period, comments were submitted in response to DEQ's proposed action. Each comment and DEQ's response is provided in the following section. All comments submitted in response to DEQ's proposed action are included in the appendix of this document.

PUBLIC COMMENTS AND RESPONSES

Public comments regarding the technical and regulatory analyses and the air quality aspects of the draft permit are summarized below. Questions, comments, and/or suggestions received during the comment period that did not relate to the air quality aspects of the permit application, the Department's technical analysis, or the draft permit are not addressed. For reference purposes, a copy of the Rules for the Control of Air Pollution in Idaho can be found at:

<http://adm.idaho.gov/adminrules/rules/idapa58/0101.pdf>.

Comment 1:

Permit shield reference to permit Section 5

The Proposed Permit provides in the permit shield an express reference to the provisions of Section 5 of the permit: "DEQ grants a permit shield for the following regulations: ... Those provisions identified in Section 5 of the Permit, so long as the NMOC emissions rate is less than 50 Mg/year." Proposed Permit at 44. But in the Statement of Basis, the Department states that "DEQ will not be adding the provisions of Permit section 5 to the permit shield list," and "the permit conditions of Section 5 of the permit do not qualify for a permit shield." Statement of Basis at 105, 106. Additionally, the Department did not indicate in other parts of the Statement of Basis that the Section 5 provisions were part of the permit shield. *See* Statement of Basis at 9.

The County requests the Department to remedy this apparent conflict between the Proposed Permit and Statement of Basis by amending the Statement of Basis to provide that the County has a permit shield for the provisions of Section 5 "so long as the NMOC emissions rate is less than 50 Mg/year." Amending the Statement of Basis in this way will provide certainty on potentially ambiguous regulatory requirements and permit text regarding the regulatory status of the collection and control system and other project components and affirm the voluntary nature of the County's installation of the collection and control system. The regulation at 40 CFR § 60.752 provides that a landfill facility **may** comply with 40 CFR § 60.752(b)(2) (and install a collection and control system, and meet all of the relevant requirements) or calculate its NMOC emission rate under 40 CFR § 60.754 and install the system only after the NMOC emission rate reaches 50 Mg/yr. For reasons discussed during the PTC process, the County is not electing to comply at this time with paragraph (b)(2) of 40 CFR § 60.752. The County will instead, as allowed under the federal rules, continue to calculate its NMOC emission rate under those pertinent regulations and comply with paragraph (b)(2) at such time as its NMOC emission rate reaches 50 Mg/yr. The permit shield statement in the Proposed Permit properly recognizes that the provisions of Section 5 apply only after the NMOC emission rate reaches 50 Mg/yr. The Department should amend the Statement of Basis to be consistent with the Proposed Permit in this respect.

If Statement of Basis is not amended to be consistent with the Proposed Permit, the Department should provide further explanation in the Statement of Basis recognizing that, although the Section 5 provisions will apply if and when the emissions rate equals 50 Mg/year, these provisions are inapplicable so long as the NMOC emissions are less than this threshold. Given the unique circumstances of this Proposed Permit, the Proposed Permit and Statement of Basis should clearly and accurately, and consistently, describe the compliance threshold that

triggers these additional Section 5 requirements-i.e., Section 5 does not apply so long as the NMOC emissions rate is less than 50 Mg/year.

Response 1: Section 4 and Section 5 of the permit have very clear and concise titles to distinguish when each section's permit conditions apply. Section 4's title is Landfill Applicable Requirements with NMOC Emission Rate Less Than 50 Mg/yr and Section 5's title is Landfill Applicable Requirements when NMOC Emissions Rate is Greater Than or Equal To 50 Mg/yr. By having the permit conditions even mentioned in the Permit Shield section (which was by the request of FHMRL) does create in itself confusion. DEQ can't provide a permit shield for future permit requirements (these requirements were request by FHMRL in the PTC application) as stated in the Statement of Basis response to comment section. Thus to clarify the confusion it would be appropriate to remove the following statement from the Permit Shield Section of the permit, "Those provisions identified in Section 5 of this Permit, so long as the NMOC emissions rate is less that 50 Mg/yr."

Conclusion 1: Permit Sections 4 and 5 are clearly titled when each section's requirements are applicable, by stating parts of or complete sections as having a permit shield does indeed promote confusion. Thus DEQ having already supplied two separate sections with clear titles has removed the following statement from the Permit Shield Section of the permit, "Those provisions identified in Section 5 of this Permit, so long as the NMOC emissions rate is less that 50 Mg/yr."

Comment 2: **Design capacity of the Landfill**
The statement of basis states the landfill's design capacity is 7.31 MMg and the County has submitted a design capacity report regarding the same. See SOB at 39, 59. But the County's 2010 design capacity report sets forth a capacity of 3.703 MMg and not 7.31 MMg. Although the County may eventually expand to 7.31 MMg, any statements in the Statement of Basis regarding the County's official "design capacity" should be consistent with the capacity set forth in the latest design capacity report-i.e., 3.703 MMg.

Response 2: In the multiple drafts of the statement of basis the design capacity of 3.703 MMg was wrongfully changed to 7.31 MMg (which is the stated future capacity). The error has been corrected to state the present design capacity of FHMRL as 3.703 MMg.

Conclusion 2: The appropriate changes have been corrected.

Comment 3: **Section 6 flare summary description**
The Department's summary description in Section 6 of the Proposed Permit should be amended for the following reasons.

First, the Department's summary description assumes the County will use an open flare as a control device for the landfill when the NMOC emissions rate reaches 50 Mg/year. However, the regulation at 40 CFR 60.752(b)(2)(iii) provides compliance may be achieved using either an open flare or a control system designed to reduce NMOC to certain specifications. The Department's Section 6 summary description does not recognize this flexibility and provides that the County must use the open flare. The Section 6 summary description needs to be amended to recognize the options provided in the regulation at 40 CFR 60.752(b)(2)(iii).

Second, the following statement in the Proposed Permit could be construed as applying before the facility's NMOC emissions rate equals 50 Mg/year: "The new opacity limit for the flare is stated within 40 CFR 60.18." Proposed Permit at 35. The provisions of 40 CFR 60.18 apply to open flares used as control devices to comply with 40 CFR parts 60 and 61. See 40 CFR 60.18(a)(1). The statement in the Proposed Permit regarding 40 CFR 60.18 suggests the County must comply with the provisions of 40 CFR 60.18 before the flare becomes a landfill

control device. In other words, the statement suggests the opacity limits of 40 CFR 60.18 apply now and not only after the NMOC emissions rate equals 50 Mg/year. Because the opacity provisions of 40 CFR 60.18 apply to open flares used as control devices to comply with 40 CFR parts 60 and 61 and the County will not have such control devices until the NMOC emissions rate equals 50 Mg/year, the County requests the Department to amend the summary description in Section 6 to correct this ambiguity regarding the timing of compliance with 40 CFR 60.18.

The County requests the Department address these issues described above by amending the Section 6 summary description to read as follows:

Until the Permittee seeks to comply with 40 CFR 60.752(b)(2)(iii) using an open flare as a control device for the landfill, the opacity requirement stated in Facility-wide Condition No. 3.7 and the performance test requirement stated in Flare Condition 6.3 (i.e., one performance test is required to determine the molecular weight during the term of this permit) are the only operating, monitoring, or recordkeeping requirements for the flare.

When the Permittee seeks to comply with 40 CFR 60,752(b)(2)(iii) using an open flare as a control device for the landfill after the NMOC emissions rate is equal to or exceeds the 50 megagrams per year limit, the Permittee shall operate the flare in accordance with these Section 6 conditions,

The Permittee may at any time voluntarily operate the flare in accordance with these Section 6 conditions.

Response 3: DEQ has revised the summary description as requested by the applicant.

Conclusion 3: DEQ has implemented the revision to Section 6 Summary Description.

Comment 4: **Open burning**

The County requests a permit shield for open burning regulations at IDAPA 58.01.01.610-616. These provisions relate to: industrial flares (610); residential solid waste disposal fires (611); landfill disposal site fires (612); orchard fires (613); prescribed burning (614); dangerous materials fires (615); and infectious waste burning (615). On their face, these Provisions do not apply to the Fort Hall Mine Road Landfill because the County does not engage in these activities at the Landfill. Thus, the Department should provide the County permit shield protections for these provisions. *See* IDAPA 58.01.01.325.01.

Response 4: DEQ will provide 58.01.01.610-616 to the permit shield section (infectious waste was numbered wrong in the comment should be 616). FHMRL will be responsible for any burning of material matching the material in these rules regardless of being listed in the Permit Shield section of this permit.

Conclusion 4: DEQ has added 58.01.01.610-616 to the Permit Shield section of the permit.

Comment 5: **Greenhouse gas reporting**

The Proposed Permit provides greenhouse gas reporting requirements for emissions pursuant to 40 CFR 98 Subpart HH (municipal solid waste landfills) and not Subpart C (general stationary fuel combustion sources). *See* Proposed Permit at 12. Because the Proposed Permit includes sources covered by Subpart HH and Subpart C, Permit Condition 3.27 should be amended to reference both Subpart HH and Subpart C.

- Response 5:** Subpart C was overlooked in regards to being included in the citation of the permit and the statements of basis. However FHMRL is responsible to address all regulations stated in Subpart HH and Subpart C as they apply.
- Conclusion 5:** DEQ has added Subpart C to the citation for permit condition 3.27 and to the appropriate reference in the Statement of Basis.
- Comment 6:** **Statement of Basis appendix**
The appendix to the Statement of Basis-i.e., Appendix A Emissions Inventory-is difficult to read and does not appear to be formatted correctly. The County requests the Department to reformat this appendix.
- Response 6:** DEQ in duplicating the same spreadsheets of the PTC into the Appendix of the Tier I Statement of Basis had a spreadsheet for the TAPs state the same data for some compounds both on the bottom of one page and on the top of the next (approx. 8 compounds). No information cited in the PTC appendixes were missing just restated thus some duplication.
- Conclusion 6:** The spreadsheet for the TAPs analysis was clearly spread over more pages and the duplication of information was eliminated.

Appendix
Public Comments Submitted for
Tier I Operating Permit
T-2010.0155

April 22, 2013

VIA CERTIFIED MAIL AND EMAIL SUBMISSION

Tessa Stevens
Air Quality Division
Idaho Department of Environmental Quality, State Office
1410 North Hilton Street
Boise, Idaho 83706
tessa.stevens@deq.idaho.gov

Re: Bannock County's Comments on Proposed Tier I Air Quality Operating Permit
No. TI-201 0.0155 for the Fort Hall Mine Road Landfill, Docket No. AQ-1303

Dear Ms. Stevens:

On March 25, 2013, the Idaho Department of Environmental Quality ("Department") published the proposed Tier I operating permit no. TI-201 0.0155 for Bannock County's Fort Hall Mine Road Landfill ("Proposed Permit") and the Statement of Basis regarding the same ("Statement of Basis"). Public comments on these documents are due by April 24, 2013. Bannock County ("County") is the owner of the Fort Hall Mine Road Landfill and the applicant for Tier I operating permit no. TI-2010.0155. The County previously commented on working drafts of the Proposed Permit. This letter constitutes the County's additional comments on the Proposed Permit. Please consider and include these comments within the administrative record for, the Proposed Permit.

I. Standards Generally Applicable to Tier I Operating Permits

The regulation at Idaho Administrative Code 58.01.01.322 provides that a Tier I permittee must comply with all permit conditions. IDAPA 58.01.01.322.15.a. Non-compliance with permit conditions constitutes a permit violation and is grounds for enforcement. *Id.* Additionally, the permittee must certify in all Tier I operating permit progress reports, records, monitoring data, supporting information, testing reports, or compliance certifications that each statement or information in these documents is true, accurate, and complete. IDAPA 58.01.01.123. In order for the County to ensure compliance with its Tier I operating permit and to certify regarding the same, the permit conditions and operating standards in the final permit must be clear and concise and there must not be any ambiguity regarding said permit conditions or operating standards.

Bannock County's Comments
Proposed Tier I Operating Permit No. T 1-2010.0155

II. Specific Comments on Proposed Permit

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Statement of Basis appendix

The appendix to the Statement of Basis-i.e., Appendix A Emissions Inventory-is

difficult to read and does not appear to be formatted correctly. The County requests the Department to reformat this appendix.

III. Conclusion

The County appreciates the opportunity to comment on the Proposed Permit and Statement of Basis and your full consideration of our views.

Sincerely,

Therese Marchetti
Bannock County Public Works
Regulatory Compliance Manager