

New York State Department of Environmental Conservation

Division of Environmental Permits, Region 3

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Joe Martens
Commissioner

March 24, 2014

Mr. Thomas Keefe
Global Companies, LLC
800 South Street, Suite 200
Waltham, MA 02453

Re: **Notice of Incomplete Application**

Global New Windsor Project – Rail Transloading Facility

Town of New Windsor, Orange County

DEC Permit ID No. 3-3348-00111/00023 (ATV Newburgh Terminal/MOSF Lic. 3-1480)

DEC Permit ID No. 3-3348-00087/00005 (ATV North Terminal/ MOSF Lic. 3-2540)

DEC Permit ID No. 3-3348-00197/00053 (ATV South Terminal/ MOSF Lic. 3-1460)

DEC Permit ID No. 3-3348-00282/00001 (Article 15 E/F - Dock)

Dear Mr. Keefe:

The New York State Department of Environmental Conservation (DEC) has reviewed the application materials submitted on your behalf by Ingalls & Associates, LLP, for the above-referenced project. Application materials for the Air Title V (ATV) permit modifications to the three adjacent Major Oil Storage Facilities (MOSF's) terminals identified above, owned by Global Companies, LLC (Global) and associated with this project, were received by this office on August 14, 2013. The SEQR Long EAF and supplemental Narrative and Article 15 Protection of Waters permit application were received separately on October 24, 2013 (revised EAF January 30, 2014) and November 29, 2013, respectively. According to the information provided, the proposed project includes:

- redevelopment of a former industrial shipyard and metals refinery, currently accepted in the New York State Brownfield Cleanup Program (BCP) for site remediation, into a railcar transloading facility;
- the interconnection of the three separate MOSF's owned by Global with one another and the railcar transloading facility (including installation of pipelines and associated pumps);
- a change of product and use for some existing bulk storage tanks at the MOSF's from distillate product storage to volatile organic liquid and installation of internal floating roofs within those storage tanks;
- construction of two marine Vapor Combustion Units (VCUs) at the south and north terminal docks to control vapors from proposed marine loading operations;
- installation of marine loading arms at the Global Newburgh Terminal and Global North Terminal docks;
- installation of steam and/or hot oil boilers for heating of rail cars and tanks; and
- a 500-square-foot expansion of the North Terminal marine dock (including installation/driving six support H-piles) within the Hudson River.

In reviewing the application and information provided, DEC staff has determined that the applications are incomplete as follows:

1. **State Environmental Quality Review (SEQR):** While the application materials included the required long

environmental assessment form (EAF) and a supplemental narrative, the submitted documents do not contain a sufficient level of detail for DEC, as the designated lead agency, to make a determination of significance at this time. It is therefore requested that the following be addressed to assist the department in moving forward with this review:

- a. **Overall Operations:** Please provide a narrative that clearly explains the proposed facility operations, from receipt of product by rail to shipment from the facility, including any changes to existing operations.
- b. **Scope of Rail Transloading Facility Site Development Activity:** The rail transloading facility is proposed for construction on the 25.34-acre former industrial shipyard parcel located adjacent to and between the Global North and South Terminals. This site is currently accepted into the DEC Brownfield Cleanup Program (BCP) for investigation and remediation, and a Brownfield Cleanup Agreement is pending. While the BCP governs the environmental review of this property such review is solely for the identification and oversight of the cleanup action. The BCP review and final approved plans will not include any documentation related to any proposed development of the site or include all site ground disturbances necessary to complete the rail transloading facility. In order to clarify this issue, please provide the following:
 - i) A plan drawing that clearly outlines and differentiates the limits of the BCP site where disturbance associated with the BCP may occur and the limits of disturbance associated with the rail transloading facility subject to this SEQR review.
 - ii) A narrative discussion that clearly identifies and quantifies the site work that is required to complete the rail transloading facility. The narrative should identify and address aspects of the project such as grading, construction of buildings, stormwater, and stabilization, etc.
- c. **Construction Stormwater Discharges** (SPDES General Permit for Stormwater Discharges from Construction Activity (GP-0-10-001). Provide the following:
 - i) One copy of the Construction Stormwater Pollution Prevention Plan (SWPPP) document for development of the rail transloading facility project. Note: The Town of New Windsor is an MS4 and as such will need to review and approve the SWPPP.
 - ii) A project drawing showing all grading including the sediment and erosion controls, a drawing with post-construction structural best management practices, and a narrative summary of pre- and post-disturbance water quality analysis.
- d. **Industrial Stormwater Discharges** (SPDES Multi Sector General Permit (MSGP) for Stormwater Discharges from Industrial Activity - GP-0-12-001). Please address the following:
 - i) Identify if MSGP coverage will be obtained for stormwater discharges that will occur outside of currently permitted outfalls under SPDES permits # NY0093572, NY0233781, and NY0005347.
 - ii) Discuss how stormwater accumulated within the proposed rail transloading facility containment area or other proposed MSGP outfall(s) will be managed and treated.

- iii) Discuss how any process wastewater (e.g., HVAC boiler blowdown from heavy crude heating) will be separated from stormwater discharges and managed. Process wastewater discharges are not eligible for coverage under the MSGP.
 - iv) The facility is required to submit an MSGP SWPPP prior to commencing the proposed operations associated with the rail transloading facility. It is requested that you review the MSGP requirements to determine eligibility for coverage. In order to facilitate DEC's review of a multi-permitted project, an applicant must submit a report including the information specified in Appendix E with the NOI. For more information please refer to Part II of the MSGP-New Stormwater Discharges (pg. 17) and Appendix E. The MSGP can be found on the Department website at: <http://www.dec.ny.gov/chemical/9009.html>. Please note: If the facility is not eligible for the MSGP, for example if there is mixing of any process wastewater with stormwater, a new SPDES 2C application will need to be submitted for a modification to the existing individual permit to include this discharge. Should it be determined the facility is not eligible for MSGP coverage, the application to modify the SPDES permit must be submitted for review concurrent with the existing applications submitted for the rail transloading facility.
- e. **Emergency Response:** In addition to the stormwater controls which are designed to prevent erosion and maintain water quality standards, the Department recognizes that MOSF's have measures in place for prevention, containment and response to spills. However, the application materials and documentation provided do not fully identify these measures or discuss how they are applicable to the proposed project. Therefore, please provide the following:
- i) For each MOSF, a current Spill Prevention, Control and Countermeasure Plan (SPCC) and current Facility Response Plan (FRP) including modifications and updates necessary to cover the rail transloading facility. Unless Global intends to consolidate the existing SPCC plans for all three MOSF's and submit it as one comprehensive document, it is requested that a marked up (red line) copy of the current facility SPCC which will include the rail transloading facility be submitted to more easily identify the proposed changes.
 - ii) A discussion of the current emergency response measures, including protocols, facilities, materials, and equipment on hand, should a spill or other emergency occur at the site. Please identify any changes or updates to those documents that will be implemented to address the additional products to be received and operational changes such as pumping product to a barge. It is also requested that you identify any other facility management plans that are in place at the MOSF's and marine docks, as required by state, federal and or other agencies, to respond to a spill should it occur on the land portion of the site or surface waters such as a spill within the Hudson River.
 - iii) Please discuss and provide a project drawing to identify the structural containment measures that will be installed within the rail transloading facility. Include a summary with calculations as applicable to identify the criteria used to establish the containment area.

- iv) If not addressed in the above items, please identify containment measures (e.g., booms) that are currently implemented at the marine terminals while product is being pumped from barges and if any changes are required or proposed to pump product from the MOSF's and on to barges.

- f. **Air Resources:** The Title V air permit modifications submitted are for the construction and operation of an intermodal rail yard for the transloading of gasoline as well as petroleum and volatile organic liquids within existing or modified storage tanks at the three existing MOSF's owned by Global, known as the Newburgh, North and South Terminals.

While the application materials submitted provide calculations to identify proposed emissions which have been used to determine applicability with the air regulations, it is requested that a narrative summary be provided to discuss the proposed changes the rail transloading project/facility will have to the current authorized air emissions. The discussion should include:

- i) The potential to emit associated with the proposed project changes and all new sources of emissions (including fugitive) and how those will be reduced and or mitigated as applicable by project controls and or design.
- ii) The DAR-1 analysis or similar analyses or evaluations that have been conducted to determine if any air emissions would pose a threat to nearby residents or other receptors. Please provide a summary conclusion of such analysis.
- iii) Identification of all procedures and tools that Global utilizes, or plans to utilize, to detect and repair leaks of air pollutants or other fugitive emissions from any aspect of its operations, regardless of whether those efforts are required by any applicable state or federal regulations.

- g. **Flooding and Floodplain:** It is understood that the development project will result in approximately 3+/- acres of additional impervious area over current site conditions. Please discuss and identify measures which will be implemented to reduce the rate of stormwater runoff to the surrounding area and or waters.

The EAF notes that the project site is located within the 100-year floodplain. Please address the following:

- i) Identify if the Town of New Windsor has reviewed the proposed project for compliance with local floodplain regulations.
- ii) If the Town of New Windsor has reviewed the proposed project for compliance with the local floodplain regulations, please submit any correspondence regarding such a review. If no review has been conducted, provide a summary identifying how the project is anticipated to meet such requirements.
- iii) If the project has not been submitted for approval to the local Floodplain Administrator, please identify when Global anticipates this will be done.

- h. **Community Plans and Character:** Please identify if/how the project is consistent with existing comprehensive plans, zoning and or 'right of use' as established by the Town of New Windsor.
 - i. **Light:** Please provide a more detailed discussion of existing light sources in the project vicinity and how the proposed facility lighting will be similar and/or represent no significant change or significant impact to nearby residences or other facilities/resources which could be impacted by night time sky lighting, etc.
 - j. **Noise:** Identify the existing sources of noise generated by current facility operations and what new sources are expected as a result of this project. Please discuss how it was determined that the proposed new sources will not raise or significantly raise the ambient noise levels at the nearest residential or sensitive receptors. Please refer to the department guidance document "Assessing and Mitigating Noise Impacts" available at: www.dec.ny.gov/docs/permits_ej_operations_pdf/noise2000.pdf. Please also indicate whether the Town has a noise ordinance or limit. If so, discuss how the facility will be in compliance with the Town requirements.
 - k. **Environmental Justice:** DEC screening of the project site has identified that the adjacent municipality, the City of Newburgh, has a Potential EJ community located nearby. As such, the Department has determined that the proposed project will require enhanced public outreach with development of a public participation plan (PPP), consistent with the provisions of CP-29 the commissioner's guidance on incorporating Environmental Justice. Information and guidance in developing the PPP can be found on the department website at: <http://www.dec.ny.gov/public/36929.html>. DEC, as SEQR lead agency, is unable to make a determination of significance or completeness for this application until the PPP has been developed and submitted to the Department for review and approval. If public meetings or outreach events are determined necessary as part of the PPP, the SEQR determination and application completeness will be stayed until the meeting has been provided.
2. **Article 15, Protection of Waters (6NYCRR Part 608):** Construction of the 500-square-foot dock expansion as proposed requires driving of six H-piles within the Hudson River as supports for the structure. The application materials, however, do not clearly identify how this work will be done and what measures will be used to maintain water quality within the Hudson River. Please provide a narrative discussion to address this issue to include the following:
- a. Identify the type of equipment and methods required/proposed to install the steel H-piles and if vibratory methods which may have less impact to aquatic species can be used.
 - b. Identify the type of equipment and methods required/proposed to encase ('jacket') the piles.
 - c. Submit a detailed site-specific dewatering, turbidity and concrete leachate (pollution) control plan, or add specific plan sheet notes, to identify measures and or best management practices which will be implemented to prevent a discharge of turbid waters and concrete leachate (including no displaced water from forms) from entering the Hudson River during this work. Note: waters from dewatering the forms prior to filing with concrete may be pumped directly to the Hudson River so long as this action does not result in a visible contrast in turbidity; otherwise, methods to control turbidity must be included.
 - d. Identify the square footage of potential impact; this should include the total footprint per pile (Steel H and concrete jacketing).

- e. Please be advised, the Department anticipates a seasonal restriction for installation of all piles and jacketing to be conducted between the dates of October 1st to November 15th to prevent inadvertent harm to sturgeon species.
3. **SPDES – MOSF's Existing Industrial Discharge Permits (NY0093572, NY0233781, NY0005347):** It is requested that a more descriptive, detailed list be provided of any 'new' oil products the facility will receive. In addition, please review the SPDES Facility expansion requirements per 6NYCRR§750-1.2(35) and §750-2.6 for the three existing SPDES permits to determine if this proposal meets the definition of facility expansion (including but not limited to use of new substances that will result in new pollutants to be discharged not declared on previous SPDES applications). If the expansion requirements are met, the permittee must notify the Regional Water engineer in writing. It is also requested that the facility research any new material it uses and identify if the proposed use and new operation will result in pollutants, including any impurities, which the permittee knows, or has reason to believe will be discharged, and which are not already described in the SPDES 2C permit application record upon which the current permit is based.
4. **MOSF License Amendments:** In accordance with General Condition No. 5 of the MOSF licenses, Global needs to submit plans and specifications for all "major additions, changes or rehabilitation in the structures or equipment of the [MOSF] which would materially affect the potential for a petroleum discharge." These must be approved by the Department prior to implementation. Information regarding what petroleum products will be stored in the various tanks needs to be submitted. Also at what point does the petroleum become subject to the MOSF license as opposed to the handling facilities contemplated by this action?

The application will remain incomplete until the above-referenced items have been addressed. Unless otherwise noted, please submit two copies of your response, supporting plans and documents and an electronic copy on CD. If you have any additional comments or questions, please feel free to contact me at (845) 256-3059.

Sincerely,



James J. Eldred
Deputy Regional Permit Administrator
DEC Region 3

CC: Supervisor, Town of New Windsor
Amelia Leonard, Ingalls & Associates, LLP
Martin Brand, Regional Director, DEC Region 3
Heather Gierloff, Habitat, DEC Region 3
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