



5296 Harvest Lake Drive, 4th Floor
Loveland, Colorado 80538

February 5, 2021

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Ms. Paula J. Wilson
Hearing Coordinator
Idaho Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706-1255
paula.wilson@deq.idaho.gov

*RE: Design and Construction of Phosphogypsum Stacks: Docket No. 58-0119-2001
Negotiated Rulemaking*

Dear Ms. Wilson:

This correspondence comprises supplemental comments of Nu-West Industries, Inc. (Nu-West) respecting the Idaho Department of Environmental Quality's (DEQ) above-referenced negotiated rulemaking, Docket No. 58-0119-2001. Nu-West previously submitted comments dated April 28, June 9, and November 13, 2020.

Nu-West is the former owner and operator of the Conda Phosphate Operations (CPO) facility, located near Soda Springs, Idaho. Although the CPO plant is now owned and operated by Itafos Conda LLC, Nu-West is jointly managing ongoing projects related to the phosphogypsum stack system (PSS) and is actively negotiating resolution of issues impacting the CPO facility PSS with the DEQ and the U.S. Environmental Protection Agency (EPA). Nu-West, therefore, has a current and ongoing interest in the CPO facility, in this rulemaking's impacts on the CPO facility PSS, and its potential adverse impacts to Nu-West's ongoing DEQ and EPA negotiations.

As noted in our previous comments, Nu-West generally supports the comments submitted by the Idaho Mining Association (IMA). As also emphasized in Nu-West's prior comments, many affected stakeholders have raised concerns with this rulemaking because industry negotiations with DEQ and EPA directly related to Idaho PSS facilities are ongoing, and the details of those proceedings cannot be discussed publicly at this time. Further, to date, the DEQ has yet to provide a revised draft of the proposed rule addressing Nu-West comments requesting clarification that the rule would not apply to or otherwise conflict with any such settlement agreements which may be reached between industry and the DEQ or EPA – whether they may be existing or future settlement agreements.

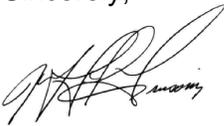
Therefore, Nu-West reiterates our perspective that this rulemaking is inappropriate until either: (1) completion of industry's ongoing PSS-related negotiations with the DEQ and EPA; or (2) until the DEQ revises the proposed rule to address this concern, by clarifying that the proposed rule will not apply to nor conflict with any existing or future settlement agreements with or approvals by the DEQ and/or EPA.

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Nu-West also objects to DEQ's failure to address in the agency's most recent revisions to the proposed rule comments previously submitted by Nu-West, IMA and other affected stakeholders. Among others, Nu-West urges the DEQ to address stakeholder comments respecting DEQ's legal authority to adopt the proposed rule, and respecting suggested revisions necessary to reconcile the proposed rule with Idaho's existing solid waste regulations and with EPA regulations governing process wastewater and phosphogypsum from phosphoric acid manufacturing operations.

Thank you once again for your consideration of Nu-West's comments. We appreciate the DEQ's efforts to shepherd this proceeding in a manner affording an opportunity for participation by Nu-West and other interested stakeholders.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Grussing", written in a cursive style.

Jeff Grussing

cc: Scott Burton, Esq., Hunton Andrews Kurth LLP