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Via E-mail

October 16, 2017

City of Chicago Department of Public Health
Attn: Environmental Permitting and Inspections
333 South State Street, Room 200
Chicago, IL 60604
EnvComments@cityofchicago.org

Re: Public Comment on July 31, 2017 Variance Application
Watco Transloading LLC, 2926 E. 126th Street, Chicago, IL

To Whom it May Concern:

Thank you for the opportunity to comment on the July 31, 2017 application of Watco Transloading LLC ("Watco") for a variance (the "Variance Request") from Section 3.0(4) of the City of Chicago Department of Public Health's (the "Department") Rules and Regulations for Control of Emissions from the Handling and Storage of Bulk Solid Materials (the "Rules"). Specifically, Watco seeks a variance to avoid the requirement of Section 3.04(4) of the Rules to conduct fugitive dust monitoring with permanent, continuous Federal Equivalent Method (FEM) real-time PM_{10} monitors around the perimeter of its facility. These comments are submitted on behalf of S.H. Bell Company ("S.H. Bell"). Watco's Variance Request should be denied because it has not met the requirements for a variance set forth in Sections 3.04(4) and 8.0 of the Rules in order to avoid the requirement to conduct fugitive dust monitoring at the perimeter of its facility with FEM PM_{10} monitors.

Simply put, we believe CDPH has no rational basis to grant Watco's Variance Request where it denied the same variance request made by S.H. Bell, and especially where it denied the same request to facility's prior owner/operator, Kinder Morgan.[1] There are many residences and a park immediately south of Watco's facility as well as an elementary school directly to the south and only about 1,500 feet away from the fence line of the facility. Moreover, Watco does not and cannot deny that its facility generates manganese dust emissions. S.H. Bell agrees with Watco that when applying the appropriate health risk standard, manganese levels in the Southeast Chicago area do not reach levels that would adversely affect the local community and that there are many sources of manganese emissions in the area. However, if CDPH were to use these facts as a basis or factor in granting Watco's Variance Request, it would be illogical for CDPH to continue to selectively target S.H. Bell for monitoring since these same facts apply in equal measure to S.H. Bell's facility.

[1] CDPH denied S.H. Bell's variance request from the requirement of Section 3.04(4) of the Rules to conduct fugitive dust monitoring with FEM time PM_{10} monitors around the perimeter of its facility on October 17, 2016. CDPH denied Kinder Morgan's variance request on May 3, 2017.

Additionally, Watco has not provided any new information nor has it demonstrated that it has made any material changes at the former Kinder Morgan facility with respect to fugitive dust control since CDPH denied Kinder Morgan's variance request, which sought to avoid the FEM PM_{10} monitoring requirements as well. Further, the facilities owned and operated by Watco and S.H. Bell have nearly identical operations involving nearly identical materials, including materials that contain manganese. However, contrary to Watco's assertion, the manganese-containing materials are nowhere near 90% of S.H. Bell's total inventory at its Chicago facility and its inventory is variable as dictated by its customers. Additionally, S.H. Bell has been required to employ more robust fugitive dust control measures, especially with respect to potential manganese emissions, whereas to our knowledge no such demands appear to have been made on Watco.

Finally, it is worth noting that S.H. Bell is the only non-petcoke facility within Chicago that has been required to install and operate the FEM PM_{10} monitors required under the Rules. CDPH should require Watco and the other bulk material handling facilities in Chicago to do their fair share and not allow Watco or others to avoid conducting the FEM PM_{10} monitoring required under the Rules.

Analysis of Watco's Fugitive Dust Control Measures

1. Barge Loading and Unloading

For barge loading and unloading, S.H. Bell employs robust dust control measures for this type of operation and also employs more stringent controls when manganese-containing materials are loaded or unloaded from a barge. For example, S.H. Bell automatically suspends barge loading or unloading of manganese-containing materials during high wind conditions. Additionally, S.H. Bell uses mobile misters or its dry fogging unit during all barge loading or unloading with respect to what Watco calls "moisture-sensitive materials." S.H. Bell positions and uses the mobile misters and/or dry fogging unit in such a manner as to create a curtain or cloud that encapsulates fugitive particulate matter and causes the fugitive particulate matter to settle out of the air.

Watco has not been required to employ such dust controls and it does not employ any more stringent controls for the loading and unloading of manganese-containing materials from a barge. In the Variance Request, Watco indicates that it is "pilot testing" a dry fog system, but has made no commitment to actually purchase or use such a unit. Watco also indicates that it is purchasing a clamshell excavator attachment for barge unloading operations. A clamshell attachment cannot be lowered far enough into a truck during barge unloading operations as compared to the standard bucket attachment on the excavator. The increased drop height required for use of a clamshell bucket creates higher dust emissions. Accordingly, a clamshell attachment should not be considered an effective dust control measure.

2. Railcar Bulk Loading and Unloading

Similar to barges, S.H. Bell employs robust dust control measures for railcar loading and unloading and also employs more stringent controls when manganese-containing materials are loaded or unloaded from a railcar. S.H. Bell automatically suspends railcar loading or unloading of manganese-containing materials during high wind conditions. S.H. Bell also employs mobile misters or its dry fogging unit to control for potential fugitive dust from its railcar loading and unloading operations. Additionally, S.H. Bell unloads box cars within an enclosure that will support the use of a portable dust collector during the operation. For loading of covered hopper railcars, S.H. Bell uses a covered conveyor with a loading spout/sock that extends into the railcar compartment.

Watco has not been required to use such dust controls at its railcar loading and unloading operations. Watco has no mobile misting units or dry fogging system that it uses for such operations and does even indicate in the Variance Request that it would pilot test such a system for railcar loading or unloading. Additionally, it is unclear whether Watco is even using a covered conveyor system for loading of covered hopper railcars. Watco likewise does not appear to employ any more stringent controls when manganese-materials are loaded or unloaded out of railcars.

3. Truck Unloading

Watco's Variance Request shows that its truck unloading procedures with respect to fugitive dust control are less robust than S.H. Bell's current procedures. S.H. Bell and Watco generally use the same unloading procedure for the type of truck that cannot be unloaded indoors due to clearance height. However, unlike Watco, S.H. Bell employs mobile misters or its dry fogging unit to control for potential fugitive dust from this one type of truck unloading operation with respect to what Watco calls "moisture-sensitive materials." Additionally, S.H. Bell has voluntarily committed to building an enclosed receiving pan that will attach to a dust collector for use during this type of truck unloading operations.

4. Truck Loading

Both Watco and S.H. Bell have installed dust collectors to its truck load out operations. S.H. Bell has also installed metal roll-up doors at the entry and exit for the trucks of each loadout shed. Loading does not commence at S.H. Bell until both of these doors are closed and the dust collector fans are interlocked to actuate upon closure of both doors. These doors on the truck load outs significantly improve capture efficiency. After loading is complete, the trucks must wait at least one minute before the doors are opened while the dust collector fans are still running to allow fugitive dust to settle and/or be captured. It is unclear from the Variance Application whether Watco has been required to implement such procedures at its facility.

5. FEM PM_{10} Monitor Location

The Watco Variance does not make a compelling argument that its compact facility size makes it unable to site FEM PM_{10} and that accordingly such monitors will provide "erratic and unreliable results." Watco's facility is believed to be larger than S.H. Bell's facility. S.H. Bell has

demonstrated that it is possible to locate monitors on a compact site with nearby buildings that produce reliable results. Notably, U.S. EPA, on whom CDPH has relied upon for approval of monitor siting locations, directed non-conformance with its siting standards to accommodate locating the FEM PM_{10} monitors in proximity to buildings at S.H. Bell's facility.

Correction of Misstatements Regarding S.H. Bell

Additionally, for the record, we believe it is necessary to correct the gross misstatements in the Watco Variance Request concerning S.H. Bell. These corrections are as follows:

- Page 4; Page 6, FN 5: Watco incorrectly asserts that 90% of the materials stored at S.H. Bell's facility contain manganese. For example, last year on average, Affected Materials (*i.e.,* manganese-containing materials) make up approximately 45% - 60% of the materials handled at the S.H. Bell facility. Importantly, the amount of Affected Materials handled at the S.H. Bell facility is variable and fluctuates constantly as S.H. Bell's customers determine the type and quantity of material shipped to the facility and when such material is shipped offsite. Additionally, Affected Materials are not stored outdoors at S.H. Bell's facility.

- Page 33; FN 42: Watco completely mischaracterizes the referenced litigation, which centered around a Section 114(a) information request issued by U.S. EPA to conduct PM_{10} and metals monitoring. For some unknown reason, U.S. EPA did not issue a Section 114(a) request to the former Kinder Morgan (now Watco) facility to require metals or PM_{10} monitoring even though this facility was known to handle bulk manganese materials based on inspections conducted by U.S. EPA in 2014. Due to the lack appropriate enforcement on behalf of U.S. EPA, it is incumbent for CDPH to require <u>both</u> metals and PM_{10} monitoring at Watco's facility.

Conclusion

CDPH should deny Watco's Variance Request from Section 3.04(4) of the Rules to conduct fugitive dust monitoring with permanent, continuous Federal Equivalent Method (FEM) real-time PM_{10} monitors around the perimeter of its facility. Watco has not met the requirements set forth in Sections 3.04(4) and 8.0 of the Rules in order to avoid this requirement. It would be illogical and irrational for CDPH to grant Watco's Variance Request where it denied the same variance request made by S.H. Bell and especially where it already denied the same request to the facility's prior owner/operator, Kinder Morgan. Watco does not and cannot deny that its facility generates manganese dust emissions and there are residences, a park, and an elementary school directly to the south of Watco's facility. Watco has provided no compelling reason nor provided any new information that could allow CDPH to grant its variance request, especially in light of the fact that it has not been required to implement (1) stricter controls on operations for manganese-containing materials or (2) the robust dust control measures that are employed at S.H. Bell's facility such as the use of mobile misting/dry fogging units.

S.H. Bell is the only non-petcoke company that has been required to install the FEM PM_{10} monitors under the Rules. As S.H. Bell has learned from its monitoring program, real-time PM_{10} monitoring data is invaluable to confirming and ensuring that fugitive dust from its operations are well controlled. Additionally, the real-time PM_{10} monitoring data has demonstrated that there are high amounts of PM_{10} coming on to S.H. Bell's facility from offsite sources. Until all facilities in Southeast Chicago that have outdoor operations are required to implement more robust fugitive dust control measures and conduct metals and real-time PM_{10} monitoring such as S.H. Bell has, the identified concerns cannot be fully addressed.

Simply put, S.H. Bell is doing its part and now it is time for other companies, including Watco, to do so as well to effectively address the dust concerns in the community. Accordingly, Watco's Variance Request should be denied.

Very truly yours,

TAFT STETTINIUS & HOLLISTER LLP

Kim R. Walberg