

STATE OF NEW MEXICO
Before the
ALBUQUERQUE-BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD

RECEIVED
ENVIRONMENTAL HEALTH
18 OCT 26 PM 3:54

IN THE MATTER OF THE PETITION FOR
A HEARING ON THE MERITS REGARDING
AIR QUALITY PERMIT NO. 3340
[NEW MEXICO TERMINAL SERVICES, LLC.]

MOUNTAIN VIEW NEIGHBORHOOD ASSOCIATION,
as an organization, and
NORA GARCIA, as an individual,
Petitioners.

PETITION FOR A HEARING

Pursuant to Chapter 74, Article 2, Section 7(H), NMSA 1978, and Section 20.11.81.14 NMAC, the Mountain View Neighborhood Association, and Nora Garcia, (“Petitioners”), by and through counsel Nadine Padilla and Eric Jantz, of the New Mexico Environmental Law Center, hereby request a hearing on Air Quality Permit No. 3340, New Mexico Terminal Services, LLC. Petitioners set forth below the information required by regulation for a request for a review hearing, and have provided the original and nine copies of this petition, including a copy of the permit attached as “Exhibit A,” and a certificate of service, to the Air Quality Control Board (“Board”). A copy of this petition has been served to the Environmental Health Department (“Department”), the hearing officer, the Board’s legal counsel, and New Mexico Terminal Services, LLC. (“Applicant”). In addition to the petition, Petitioners submit the filing fee of \$125.00 pursuant to 20.11.2 NMAC. Petitioners and counsel attest to the truth of the information contained in this petition.

Pursuant to Section 20.11.81.14(A)(2)(2)(a)-(f), Petitioners provide the following information and request a hearing on the merits.

A. Section 20.11.81.14(A)(2)(2)(a) provides that a petition shall be filed with the Board within 30 consecutive days from the date notice is given of the permitting action taken by the department and regarding which the petition objects.

This petition was filed within 30 consecutive days from the date notice was given of the permitting action. Notice of the issuance of Permit No. 3340 is dated September 27, 2018. This petition was filed with the Board and Department on October 26, 2018, within 30 days of receiving notice of the permitting action of which Petitioners object. Thus, this petition is timely and a hearing should be granted.

B. Section 20.11.81.14(A)(2)(2)(b) provides that a petition shall state the Petitioners' name, address, telephone number, facsimile number, cellular telephone number, and other contact information.

Petitioners:

Mountain View Neighborhood Association (MVNA)
Contact: Lauro Silva, Board Member
PO Box 19081
Albuquerque, NM 87119
(505) 720-4539
alcoat1944@gmail.com

Nora Garcia
MVNA President
236 Sunnyslope St SW
Albuquerque, NM 87105
(505) 414-1621
ngarcia49@yahoo.com

Counsel for Petitioners:

Nadine Padilla, npadilla@nmelc.org
Eric Jantz, ejantz@nmelc.org
New Mexico Environmental Law Center
1405 Luisa St, Ste 5
Santa Fe, NM 87505
(505) 989-9022 Phone
(505) 989-3769 Fax

C. Section 20.11.81.14(A)(2)(2)(c) provides that the petition state the manner in which the petitioner participated in the permitting action that was pending before the department and how the petitioner is adversely affected by the permitting action taken by the department.

Petitioners first requested a Public Information Hearing on April 10, 2018. Petitioners, by and through its members, gave oral and written comments. Petitioners presented public comments and hand delivered information at the Public Information Hearing that was held on August 30, 2018. Members of the public emailed the Air Quality Program when application documents online had been taken down and were not available and when maps and images were illegible. The Mountain View Neighborhood Association encompasses the proposed facility and the pollution the operation will emit is of concern to Neighborhood Association residents. Petitioners are adversely affected by the permitting action by living in the same community as the proposed facility. This new facility would add to the existing impacts from other polluting sources. Petitioners live in the neighborhood of the proposed facility and are adversely impacted by breathing polluted air, resulting in adverse health impacts to themselves and their families. The proposed facility would also impact the Petitioners' quiet enjoyment of their property. Petitioners are concerned with the proliferation of polluting industries in their neighborhood, dust, and noxious odors coming from existing facilities. Permitting a new operation would only exacerbate existing conditions. Petitioners are recognized as an EPA environmental justice community which is deemed to be an impacted and vulnerable community.

D. Section 20.11.81.14(A)(2)(2)(d) provides that the petition (1) identify the specific permitting action appealed from; (2) specify the portions of the permitting action to which petitioner objects; and (3) state the factual and legal basis of petitioner's objections to the permitting action taken by the department.

1. This petition addresses the issuance of Air Quality Permit No. 3340, New Mexico Terminal Services, LLC. Construction Permit, located at 9615 Broadway SE, Albuquerque, NM,

87105. The permit was issued by the Environmental Health Department and notice of issuance of permit was sent on September 27, 2018.

2. Petitioners object to the granting and the issuance of permit no. 3340. Petitioners raised quality of life concerns throughout the permitting process that were not given proper consideration. The Department violated Petitioners' due process rights, as well as statutory requirements as mandated in *Colonias Dev. Council v. Rhino Envtl. Services, Inc.*, 2005-NMSC-024, 138 N.M. 133, ("*Rhino*").

3. Petitioner's objections to this permit are based on the following legal and factual grounds:

a.) The Environmental Health Department failed to comply with the New Mexico Supreme Court's decision in *Rhino* that requires administrative agencies to meaningfully consider and address quality of life concerns.

In *Colonias Development Council v. Rhino Environmental Services, Inc.*, the New Mexico Supreme Court held that administrative agencies are required to consider and address a proposed activity's impact on a community's quality of life, including whether the cumulative effects of pollution, exacerbated by the incidences of poverty, may rise to the level of a public nuisance or hazard to public health, welfare, or the environment. 138 N.M. 133, 142. The NM Supreme Court has specifically directed agencies to consider more than just the technical aspects of a permit.

Throughout the permitting process, Petitioners and members of the public raised quality of life concerns. Petitioners and members of the public raised concerns about their community becoming overburdened with the proliferation of polluting industries, problems with dust, fumes, and foul odors, as well as getting headaches from odors coming from existing facilities in the area. Petitioners testified that the location and cumulative impacts of this new operation would

add to existing negative impacts and create a nuisance in the area. Community members cited concerns of lower life expectancy rates in the area compared to everywhere else in Bernalillo County. Transcript of Public Information Hearing at 1:57:15. Members of the public feel they are a “throw away community” due to the overwhelming presence of polluting industries and continuous permitting of new facilities. *See* Written Comments of Esther Abeyta, submitted September 13, 2018.

The Department did not consider these impacts to the community and no conditions were made in response to quality of life concerns raised. In its form letter response, the Department stated that “the Air Quality Program does not have a say in where facilities that emit pollutants get located.” In this case, however, by deciding whether to permit a facility, the Department *is* determining where facilities that emit pollutants get located. *See* Section D.3.c, below. There is no evidence that the Department considered quality of life issues in making its decision. In fact, during the Public Information Hearing, the Hearing Office expressly stated that concerns not relating to air quality would not be made part of the record. Transcript of Public Information Hearing at 25:01. The Hearing Officer stated that the Director cannot consider issues not directly related to air quality. *Id.* This is a clear indication that quality of life issues were not made part of the record and not considered in the permitting decision.

As in *Rhino*, the Department is required to consider the non-technical impacts of the asphalt plant on the neighboring community and the burden the proliferation of new facilities will have on the community. When the permit was approved, Petitioners only received a generic form letter in response to the concerns they raised during the public hearing. A generic form letter is not consistent with *Rhino's* requirements. After Petitioners have attended meeting after meeting voicing their concerns, taking time away from work and family to be in attendance and

be involved in issues impacting their communities, receiving the same form letter response diminishes Petitioners' opportunity to be heard as required by *Rhino*.

Next, critical questions from Petitioners were not answered at the Public Information Hearing. Petitioners are entitled to receive answers to the questions they pose at Public Information Hearings. In order for public involvement to be meaningful and not a "sham" as discussed in *Rhino*, the Department needs to be required to have the appropriate experts, including the applicant, attend public information hearings in order to respond to all, and anticipated, questions from the public.

Because the Department did not consider the impact this new facility would have on Petitioners' quality of life, the permit should be rescinded and remanded to the Department for further public hearings where the Department should consider and meaningfully respond to community members' quality of life concerns.

b.) The Department violated Petitioners' due process rights.

The Environmental Health Department violated the Petitioners' due process rights in several ways during the permitting process for Permit No. 3340.

Maps and images included in the application were illegible and prevented Petitioners from viewing important details, in violation of notice requirements. U.S. CONST. amend. XIV, N.M. CONST. art. II § 18. Petitioners need to be able to view the contents of maps and images in order to prepare comments and comment meaningfully on a permit application.

Next, deceptive answers from Applicant during the Public Information Hearing violated notice requirements. During the Public Information Hearing, a line of questioning regarding the zoning purposes of the land was effectively shut down when the consultant for Applicant incorrectly responded to a question from the public that the land was currently zoned as "M2"

and that a hot mix asphalt plant is allowed under the current zoning requirements. *See* Transcript of Public Information Hearing at 1:28:50-1:30:10. As explained in section D.3(c) of this petition, a hot mix asphalt plant is not a proper use under the current zoning designation. The assurance from Applicant that the area is zoned for a hot mix asphalt plant was incorrect and prevented the line of questioning from continuing. Thus, Petitioners were denied their Constitutional rights of due process by preventing them from being heard on this point. U.S. CONST. amend. XIV, N.M. CONST. art. II § 18, *see generally Freed v. City of Albuquerque*, 2017-NMCA-011, 388 P.3d. 287. Petitioners cannot meaningfully comment on issues that are hidden from them.

Further, the misinformation supplied by Applicant can be viewed as a pattern of deception, as the owner and operator has been involved in several litigation matters involving deceptive practices under the Construction Industries Licensing Act and the New Mexico Unfair and Deceptive Business Practices Act. *See Gandydancer, LLC. v. Rock House CGM, LLC*, 2018 N.M. App. LEXIS 43, 2018 WL 3640370.

Applicant's description of "new" equipment in the permit application is also misleading to the public, as the public interprets the use of the word "new" to mean brand new equipment. Meanwhile, the Department has indicated that equipment has not yet been identified, and that the equipment may be new or used, but not "new" as understood by the public, i.e., equipment that has never been used before.

Last, the application and supporting documents were in a format that was not accessible and could not be read using assistive document reading technologies for those with disabilities. In addition to violating the Americans with Disabilities Act (as explained further below) this

resulted in a violation of the right to be heard. U.S. CONST. amend. XIV, N.M. CONST. art. II § 18.

c.) The Environmental Health Department issued Permit No. 3340 for a use inconsistent with the land's proper zoning purpose in violation of the Clean Air Act.

The Department cannot issue an air quality permit for a use inconsistent with Bernalillo County's zoning determinations. Clean Air Act, 42 USCS §§ 7401-7431 (2018). The Clean Air Act provides that implementation of the Clean Air Act shall not infringe on local land use laws. 42 USCS §7431 (2018). Bernalillo County has sole authority to plan and control land use. *Id.* By approving permit no. 3340, the Department has impermissibly attempted to exert the authority to plan and control land use.

The address 9615 Broadway SE, Albuquerque, New Mexico, 87105 has a current zoning designation of A-1. New Mexico Terminal Services applied for and received a Special Use Permit for an Industrial Park in 2016. The uses specified under the Special Use Permit included office space, rail spurs for storage and transfer of train cars, on-site storage of sand, gravel, lumber, and building products such as sheetrock, siding, and shingles, and transfer of petroleum products from rail cars to trucks. The Special Use Permit application specifically stated that there would be no onsite storage of petroleum products. The Special Use Permit does not authorize operating a hot mix asphalt plant.

In addition to violating the Clean Air Act's provisions, the Department acted beyond its authority by issuing a permit based on the applicant's business goals and future industrial planning of the area rather than on the basis of public health and environmental protection. *Public Serv. Co. v. NM Envtl Improvement Bd.*, 1976-NMCA-039, 89 N.M. 223. Additionally,

Applicant appears to believe a hot mix asphalt plant is a use consistent with its current zoning permit, which is incorrect. *See* Transcript of Public Information Hearing at 1:28:33.

Thus, Air Quality Permit No. 3340 should be rescinded and declared void, if and until there is a change in zoning status.

d.) The air dispersion modeling does not take into account emissions of particulate matter from neighboring facilities.

Petitioners and other community members raised concerns about the concentrations of particulate matter and volatile organic compounds coming from the facility. Modeling for this facility should have included particulates from nearby operations, particularly because this area is an environmental justice community. *See* Air Dispersion Modeling Guidelines for Air Quality Permitting, available at <https://www.cabq.gov/airquality/documents/feb2016-coa-dispersion-modeling-guidelines-1.pdf>. Emissions of particulate matter coming from neighboring facilities, as well as volatile organic compounds, should be taken into account when evaluating the effect of numerous polluting industries in the same neighborhood.

e.) The inaccessible documents provided by the Department was in violation of ADA requirements.

The application and supporting documents were in a format that was not accessible and could not be read using assistive document reading technologies for those with disabilities. Assistive reading technologies allow a document to be read aloud to viewers that have visual impairments. As a result of the document being inaccessible, members of the public with disabilities or visual impairments were not able to review the document or had difficulty reading the documents. *See generally*, Americans with Disabilities Act, 42 U.S.C. §§12101-12213 (2018).

E. Section 20.11.81.14(A)(2)(2)(e) provides that the petitioner (1) state the remedy sought; (2) the legal basis for the remedy; and (3) state how granting the remedy is within the air quality jurisdiction of the board.

1. Petitioner's seek revocation of the permit. Alternatively, the permit can be conditioned in several ways: (1) find the permit void, if and until, a zoning permit is secured; (2) require Applicant to conduct continuous fence-line ambient air quality monitoring by installing at least four ambient air monitoring systems around the facility, particularly for PM 10 and PM 2.5 and volatile organic compounds that the operation will emit; (3) hold a new Public Information Hearing with a toxicologist who can respond to public health concerns from the community; (4) require Applicant to use new equipment in the building and operation of the facility. In this case, the word "new" should be construed to mean the machine's first use, with no prior uses or owners; and (5) require Applicant to submit quarterly reports of actual emissions, including emissions of particulate matter and volatile organic compounds, to the Department.

2. Legal basis for remedy (1) find the permit void, if and until, a zoning permit is secured: Clean Air Act, 42 USCS §§ 7401-7431 (2018); *Public Service Company v. NM Environmental Board*, 1976-NMCA-039, 89 N.M. 223.

Legal basis for remedy (2) require continuous fence-line ambient air monitoring systems around the facility for any exceedance of air quality standards, particularly particulate matter: Section 20.11.41.19(B)(4) NMAC, 20.11.41.19(C)(5), (6) NMAC, 20.11.41.19(C)(8)-(11) NMAC.

Legal basis for remedy (3) hold a new Public Information Hearing with a toxicologist who can respond to concerns from the community: Section 20.11.41.15(A), Section 20.11.41.15(B)(3), and 20.11.41.15(B)(4) NMAC.

Legal basis for remedy (4) require the applicant to use “new” as proposed in this petition in the building and operation of the facility: Section 20.11.41.16(C) NMAC.

Legal basis for remedy (5) require the applicant to submit quarterly reports of actual emissions, including emissions of particulate matter and volatile organic compounds: Section 20.11.41.19(B)(4) NMAC, 20.11.41.19(C)(9)-(11) NMAC.

3. The Air Quality Control Board has jurisdiction under NMSA 1978, section 74-2-7(K) to place conditions upon a permit.

F. Section 20.11.81.14(A)(2)(2)(f) requires that petitioner attach a copy of the permitting action being addressed.

A copy of the permitting action at issue is attached to this petition as “Exhibit A.”

Petitioners and Counsel hereby certify and attest that the foregoing is true and correct to the best of our knowledge and belief:



Lauro Silva on behalf of
Mountain View Neighborhood Association
PO Box 19081 Albuquerque NM 87119
(505) 720-4539
alcoat1944@gmail.com



Nadine Padilla
Staff Attorney
New Mexico Environmental Law Center
1405 Luisa St, Ste 5
Santa Fe, NM 87505
npadilla@nmelc.org
(505) 989-9022 Phone
(505) 989-3769 Fax



Nora Garcia
236 Sunnyslope St SW
Albuquerque, NM 87105
(505) 414-1621
ngarcia49@yahoo.com



Eric Jantz
Staff Attorney
New Mexico Environmental Law Center
ejantz@nmelc.org
1405 Luisa St, Ste 5
Santa Fe, NM 87505
(505) 989-9022 Phone
(505) 989-3769 Fax

CERTIFICATE OF SERVICE

On this 26th day of October, 2018, Nadine Padilla, counsel for Petitioners, caused to be served by hand a copy of this Petition with Exhibit A to the Environmental Health Department, Suite 3023, 1 Civic Plaza, 400 Marquette NW, Albuquerque, New Mexico, and filed the original and nine copies of the Petition with Exhibit A and this certificate of service with the Albuquerque-Bernalillo Air Quality Control Board. A copy of this petition was delivered by hand to the hearing officer and the Board's legal counsel. A copy of this petition, including Exhibit A, was sent on this date by certified mail to NM Terminal Services, LLC. at the address 9615 Broadway SE, Albuquerque, NM, 87105.



Nadine Padilla
Staff Attorney
New Mexico Environmental Law Center
npadilla@nmelec.org
1405 Luisa St, Ste 5
Santa Fe, NM 87505
(505) 989-9022 Phone
(505) 989-3769 Fax



Tim Keller, Mayor

AIR QUALITY CONSTRUCTION PERMIT #3340
FACILITY CDS #NM/001/02442
Facility ID: FA0007616; Record ID: PR0009169



Danny Nevarez, Acting Director

Issued to: New Mexico Terminal Services, LLC
9615 Broadway Blvd. SE
Albuquerque, New Mexico 87105

Certified Mail No. 7007 1490 0003 5645 7496
Return Receipt Requested

Responsible Official: Karl Pergola, Managing Member

Pursuant to the New Mexico Air Quality Control Act, Chapter 74, Article 2 New Mexico Statutes Annotated 1978 (As Amended); the Joint Air Quality Control Board Ordinance, 9-5-1 to 9-5-99 ROA 1994; the Bernalillo County Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5; the Albuquerque/Bernalillo County Air Quality Control Board (A/BCAQCB) Regulation Title 20, New Mexico Administrative Code (20 NMAC), Chapter 11, Part 40 (20.11.40 NMAC), Air Contaminant Source Registration; and A/BCAQCB Regulation Title 20, NMAC, Chapter 11, Part 41 (20.11.41 NMAC), Construction Permits; **New Mexico Terminal Services, LLC** (Company or Permittee) is hereby issued this **CONSTRUCTION PERMIT** and authorized to operate the following equipment at:

Facility/Location	Facility Process Description	SIC	NAICS
New Mexico Terminal Services 9615 Broadway Blvd. SE Albuquerque, NM 87105 UTMN: 3869300 UTME: 347500	400 ton/hr Hot Mix Asphalt Plant	2951	324121

This **CONSTRUCTION** permit number 3340 has been issued based on the review of the application received by the Albuquerque Environmental Health Department (Department), Air Quality Program on February 23, 2018, and on the National Ambient Air Quality Standards, New Mexico Ambient Air Quality Standards, and Air Quality Control Regulations for Albuquerque/Bernalillo County, as amended. As these standards and regulations are updated or amended, the applicable changes will be incorporated into permit number 3340 and will apply to the Facility.

Issued on the 19th day of September, 2018

Isreal Tavarez, Environmental Health Manager
Air Quality Program
Environmental Health Department
City of Albuquerque

Exhibit A

I. CONDITIONS: Conditions have been imposed in this permit to assure continued compliance. 20.11.41.19.D NMAC, states that any term or condition imposed by the Department on a permit or permit modification is enforceable to the same extent as a regulation of the Board. Pursuant to 20.11.41 NMAC, the Facility is subject to the following conditions:

1. Construction and Operation: Compliance will be based on Department inspections of the Facility, reviews of production records, submission of appropriate permit applications for modification, and timely notification to the Department regarding equipment substitutions and relocations.

a) This permit authorizes the operation of the following equipment:

Process Equipment Table

Process Units Number	Process Units Description	Manufacturer	Model Number	Serial Number	Manufacture Date	Installation Date	Rated Process Rate	Unit Subject To NSPS
1	Railcar Hopper	TBD*	TBD*	TBD*	TBD*	TBD*	133.3 tph	No
2	Rail Hopper Conveyor	TBD*	TBD*	TBD*	TBD*	TBD*	133.3 tph	No
3	Rail Telescoping Conveyor	TBD*	TBD*	TBD*	TBD*	TBD*	133.3 tph	No
4	Aggregate Storage Piles	N A	N A	N A	N A	TBD*	133.3 tph	No
5	Aggregate Truck Loading	N A	N A	N A	N A	TBD*	100 tph	No
6	HMA RAP Storage Pile	N A	N A	N A	N A	TBD*	140 tph	No
7	HMA Cold Aggregate Feed Bins (6)	TBD*	TBD*	TBD*	TBD*	TBD*	230 tph	No
8	HMA Cold Aggregate Feed Bin Conveyor	TBD*	TBD*	TBD*	TBD*	TBD*	230 tph	No
9	HMA Scalping Screen	TBD*	TBD*	TBD*	TBD*	TBD*	230 tph	No
10	HMA Scalping Screen Conveyor	TBD*	TBD*	TBD*	TBD*	TBD*	230 tph	No
11	HMA Pug Mill	TBD*	TBD*	TBD*	TBD*	TBD*	236 tph	No
12	HMA Scale Conveyor	TBD*	TBD*	TBD*	TBD*	TBD*	236 tph	No
13	HMA Slinger Conveyor	TBD*	TBD*	TBD*	TBD*	TBD*	236 tph	No
14	HMA RAP Bin	TBD*	TBD*	TBD*	TBD*	TBD*	140 tph	No
15	HMA RAP Crusher	TBD*	TBD*	TBD*	TBD*	TBD*	140 tph	No
16	HMA RAP Crusher Conveyor	TBD*	TBD*	TBD*	TBD*	TBD*	140 tph	No
17	HMA RAP Screen	TBD*	TBD*	TBD*	TBD*	TBD*	140 tph	No
18	HMA RAP Screen Conveyor	TBD*	TBD*	TBD*	TBD*	TBD*	140 tph	No
19	HMA RAP Screen Conveyor	TBD*	TBD*	TBD*	TBD*	TBD*	140 tph	No
20	HMA RAP Screen Conveyor	TBD*	TBD*	TBD*	TBD*	TBD*	140 tph	No

Process Units Number	Process Units Description	Manufacturer	Model Number	Serial Number	Manufacture Date	Installation Date	Rated Process Rate	Unit Subject To NSPS
21	HMA Mineral Filler Silo	TBD*	TBD*	TBD*	TBD*	TBD*	6 tph	Yes
22	HMA Drum Dryer/Mixer	TBD*	TBD*	TBD*	TBD*	TBD*	400 tph	Yes
23	HMA Incline Conveyor	TBD*	TBD*	TBD*	TBD*	TBD*	400 tph	No
24	HMA Silos (3)	TBD*	TBD*	TBD*	TBD*	TBD*	400 tph	No
25	HMA Heater	TBD*	TBD*	TBD*	TBD*	TBD*	2.5 MMBtu/hr	No
26	HMA Cement Storage Tanks (2)	TBD*	TBD*	TBD*	TBD*	TBD*	5206 gal/hr	No
27	Haul Roads	N/A	N/A	N/A	N/A	N/A	N/A	No
28	HMA Yard	N/A	N/A	N/A	N/A	TBD*	400 tph	No

* TBD – to be determined, see Condition 5.c)

Air Pollution Control Equipment*

Type of Control Equipment	Process Unit Number Controlled	Manufacturer	Model Number	Serial Number	Rated Process Rate	Control Efficiency
Baghouse	21	TBD	TBD	TBD	Unknown	99%**
Baghouse	22	TBD	TBD	TBD	32,000 ACFM	99.88%

* Each baghouse stack must meet NSPS (40 CFR §60.92) limits for opacity and particulates

** Engineering judgment based on lower end of baghouse controls

- b) All equipment shall be maintained as per manufacturer specifications to ensure the emissions remain at or below the permitted levels.
- c) This Facility shall be constructed and operated in accordance with information provided on the permit application received February 23, 2018 and in accordance with the legal authority specified above and the conditions of this permit.
- d) The Facility is subject to federal New Source Performance Standards (NSPS), Code of Federal Regulations (CFR), Title 40, Part 60, Subpart I - Standards of Performance for Hot Mix Asphalt Facilities, and Subpart A - General Provisions. The affected Facility has commenced construction or modification after June 11, 1973.
- e) Replacement of emission units for which an allowable emissions limit has been established in the permit may be requested by the permittee through a technical permit revision in accordance with 20.11.41.28.B NMAC.
- f) The equipment specified in Condition I.1.a) is considered a portable stationary source as defined by 20.11.41.7.GG NMAC and may be relocated to another site provided the requirements are met in Condition I.5.h) prior to the relocation.
- g) The following equipment located at the Facility is restricted to operate as follows:
 - i. Fencing/barriers shall be installed and maintained restricting access to the property;
 - ii. The recycled asphalt (RAP) plant (Process Unit #15) shall not exceed 140 tons per hour (tph) production rate;
 - iii. The hot mix asphalt (HMA) plant (Process Unit #22) shall not exceed 400 tph production rate;

- iv. The HMA plant (except Process Units #1, 2, 3, 5 and 25 and paved/unpaved aggregate haul roads) shall operate seasonally:
 1. during the months of December through February, 4am to 9pm, 7 days per week;
 2. during the months of March through November, continuously.
- v. Railcar and truck operations and the heater (Process Units #1, 2, 3, 5 and 25) and railhop truck traffic on paved/unpaved aggregate haul roads may operate continuously year-round. Please see Appendix A for which sections of the haul roads (PAGG and UPA) shall operate year-round:
- vi. For the HMA plant the total annual production is limited to 800,000 tons:
 1. during the months of December through February, the total daily production is limited to 3200 tons;
 2. during the months of March through May, the total daily production is limited to 4000 tons;
 3. during the months of June through November, the total daily production is limited to 4800 tons.
- vii. Railcar unloading operations are limited to 3200 tons per day:
- viii. Transport of aggregate to off-site locations is limited to four (4) haul truck loads per hour on roads PAGG and UPA. Please see Appendix A for the haul road sections.
- ix. As the above conditions show, the Facility is restricted to seasonal operating scenarios. These conditions have been placed in the permit based on air dispersion modeling of the Facility at this location to demonstrate compliance with the National Ambient Air Quality Standards and New Mexico Ambient Air Quality Standards for NO₂, CO, SO₂, PM_{2.5}, PM₁₀, and TSP;
- x. Process Unit #22 is authorized to burn fuel/waste oil or natural gas/propane as the fuel;
- xi. Process Unit #25 is authorized to burn natural gas/propane or low sulfur diesel;
- xii. Except for railcar operations and the entrance road, HMA sources must remain at least 150 ft. from the property fence.
- xiii. The entrance road shall be paved. Please see Appendix A for which sections of the road (HMAP and PAGG) shall be paved;
- xiv. Material storage piles shall be watered to control fugitive dust emissions from leaving the property;
- xv. Process Units #8, 11 and 14 shall each be operated with an atomized water spray bar. This condition has been placed in the permit based on air dispersion modeling of the Facility at this location to demonstrate compliance with the National Ambient Air Quality Standards and New Mexico Ambient Air Quality Standards for PM_{2.5}, PM₁₀, and TSP; and,
- xvi. In the event of a malfunction causing the differential pressure for the Process Unit #22 baghouse to go outside of operating range as determined through compliance testing or manufacturer specifications, the Facility shall be shut down and repairs shall be made to the affected equipment. Operation of the Facility shall not re-commence until the capture and control equipment for Unit #22 is fully functional.

- h) Vehicle traffic areas and haul roads shall be maintained and controlled pursuant to 20.11.20.12.A. NMAC, General Provisions, Fugitive Dust Control. That is, the owner/operator shall "...use reasonable available control measures or any other effective control measure to prevent a violation of the national ambient air quality standards and meet the objective established in 20.11.20.6 NMAC, whether or not the person has been issued a fugitive dust control permit. No person shall allow fugitive dust, track out, or transported material from any active operation, open storage pile, paved or unpaved roadway or disturbed surface area, or inactive disturbed surface area to be carried beyond the property line, right-of-way, easement or any other area under control of the person generating or allowing the fugitive dust if the fugitive dust will: 1) adversely affect the health, public welfare or safety of the residents of Bernalillo county; or 2) impair visibility or the reasonable use of property; or 3) be visible longer than a total of 15 minutes in any one hour observation period (to be determined using a Method 22 test - "Visual determination of fugitive emissions from material sources and smoke emissions from flares", pursuant to CFR Title 40 Part 60 Appendix A). To mitigate fugitive dust, all inactive disturbed surface areas must be stabilized and maintained in stable condition by the owner, operator, or person responsible for maintenance of the disturbed surface..." The permittee shall use any of the following control measures to prevent visible emissions of fugitive dust from being generated as specified by 20.11.20.23.A NMAC:
- i. Using dust suppressants applied in amounts and rates recommended by the manufacturer and maintained as recommended by the manufacturer; or
 - ii. Using wet suppression; or
 - iii. Using traffic controls, including decreased speed limits with appropriate enforcement; other traffic calming methods, vehicle access restrictions and controls; road closures or barricades; and off-road vehicle access controls and closures.
- i) Before initiating operation, the permittee shall notify the Department of an email address for the Facility to receive Department-initiated shut down notices in the case of high wind events, and shall shut down as soon as practical upon receiving such notices.
- j) Changes in plans, specifications, and other representations proposed in the application documents shall not be made if they will increase the potential to emit or cause a change in the method of control of emissions or in the character of emissions. Any such proposed changes shall be submitted as a modification to this permit. No modification shall begin prior to issuance of a permit.
- k) The emission of a regulated air pollutant in excess of the quantity, rate, opacity, or concentration specified in an air quality regulation or permit condition that results in an excess emission is a violation of the air quality regulation or permit condition and may be subject to an enforcement action. The owner or operator of a source having an excess emission shall, to the extent practicable, operate the source, including associated air pollution control equipment, in a manner consistent with good air pollution control practices for minimizing emissions. This condition is pursuant to 20.11.49.14 NMAC.

2. **Unit Emission Limits:** Condition 2, Unit Emission Limits, has been placed in the permit in accordance with 20.11.41.19.B NMAC, and 40 CFR 60 Subpart I and Subpart III, to allow the Department to determine compliance with the terms and conditions of the permit. These were the emission rates stated in the permit application and are the basis of the Department's review. Compliance will be based on Department inspections of the Facility and upon compliance with the emission limits and opacity readings conducted in accordance with the test methods specified in Condition 6 - **Compliance Tests**.

a) The HMA plant shall not exceed the emission limits stated in the table below. Tons per year emissions shall be based on a 12-month rolling total.

Criteria Pollutants

Unit No.	NO _x lb/hr	NO _x tpy	CO lb/hr	CO tpy	VOC lb/hr	VOC tpy	SO ₂ lb/hr	SO ₂ tpy	TSP lb/hr	TSP tpy	PM ₁₀ lb/hr	PM ₁₀ tpy	PM _{2.5} lb/hr	PM _{2.5} tpy	HAPs tpy	Percent Opacity	Record-Keeping ¹	Monitoring ¹	Reporting ¹	Compliance Testing ²
1	--	--	--	--	--	--	--	0.06	0.24	0.03	0.11	0.004	0.02	--	20%	N/A	N/A	N/A	N/A	N/A
2	--	--	--	--	--	--	--	0.02	0.08	0.006	0.03	0.002	0.008	--	20%	Yes	Yes	Yes	Yes	No
3	--	--	--	--	--	--	--	0.02	0.08	0.006	0.03	0.002	0.008	--	20%	Yes	Yes	Yes	Yes	No
4	--	--	--	--	--	--	--	0.63	2.76	0.30	1.30	0.05	0.20	--	20%	Yes	Yes	Yes	Yes	No
5	--	--	--	--	--	--	--	0.47	1.67	0.22	0.79	0.03	0.12	--	20%	Yes	Yes	Yes	Yes	No
6	--	--	--	--	--	--	--	0.20	0.20	0.09	0.09	0.003	0.004	--	20%	Yes	Yes	Yes	Yes	No
7	--	--	--	--	--	--	--	1.09	1.09	0.51	0.51	0.003	0.004	--	20%	Yes	Yes	Yes	Yes	No
8	--	--	--	--	--	--	--	0.03	0.03	0.01	0.01	0.003	0.004	--	20%	Yes	Yes	Yes	Yes	No
9	--	--	--	--	--	--	--	0.51	0.51	0.17	0.17	0.01	0.02	--	20%	Yes	Yes	Yes	Yes	No
10	--	--	--	--	--	--	--	0.03	0.03	0.01	0.01	0.002	0.002	--	20%	Yes	Yes	Yes	Yes	No
11	--	--	--	--	--	--	--	0.03	0.03	0.01	0.01	0.007	0.008	--	20%	Yes	Yes	Yes	Yes	No
12	--	--	--	--	--	--	--	0.03	0.03	0.01	0.01	0.002	0.002	--	20%	Yes	Yes	Yes	Yes	No
13	--	--	--	--	--	--	--	0.03	0.03	0.01	0.01	0.002	0.002	--	20%	Yes	Yes	Yes	Yes	No
14	--	--	--	--	--	--	--	0.20	0.20	0.09	0.09	0.009	0.002	--	20%	Yes	Yes	Yes	Yes	No
15	--	--	--	--	--	--	--	0.17	0.17	0.08	0.08	0.003	0.004	--	20%	Yes	Yes	Yes	Yes	No
16	--	--	--	--	--	--	--	0.02	0.02	0.006	0.006	0.01	0.02	--	20%	Yes	Yes	Yes	Yes	No
17	--	--	--	--	--	--	--	0.31	0.31	0.10	0.10	0.002	0.002	--	20%	Yes	Yes	Yes	Yes	No
18	--	--	--	--	--	--	--	0.02	0.02	0.006	0.006	0.007	0.008	--	20%	Yes	Yes	Yes	Yes	No
19	--	--	--	--	--	--	--	0.02	0.02	0.006	0.006	0.002	0.002	--	20%	Yes	Yes	Yes	Yes	No

Unit No.	NO _x lb/hr	NO _x tpy	CO lb/hr	CO tpy	VOC lb/hr	VOC tpy	SO ₂ lb/hr	SO ₂ tpy	TSP lb/hr	TSP tpy	PM ₁₀ lb/hr	PM ₁₀ tpy	PM _{2.5} lb/hr	PM _{2.5} tpy	HAPs tpy	Percent Opacity	Record-Keeping ¹	Monitoring ¹	Reporting ¹	Compliance Testing ²
20	--	--	--	--	--	--	--	--	0.02	0.02	0.006	0.006	0.002	0.002	--	20%	Yes	Yes	Yes	No
21	--	--	--	--	--	--	--	--	0.18	0.04	0.12	0.03	0.009	0.002	--	20%	Yes	Yes	Yes	No
22	22	22	52	52	13	13	23	26	13	13	9.2	9.2	9.2	9.2	4.19	20%	Yes	Yes	Yes	Yes
23	--	--	0.47	0.47	4.9	4.9	--	--	0.23	0.23	0.23	0.23	0.23	0.23	--	20%	Yes	Yes	Yes	No
24	--	--	0.54	0.54	1.7	1.7	--	--	0.21	0.21	0.21	0.21	0.21	0.21	--	20%	Yes	Yes	Yes	No
25 ³	0.39	1.71	0.20	0.90	0.03	0.12	0.14	0.61	0.04	0.17	0.04	0.17	0.04	0.17	--	20%	Yes	Yes	Yes	No
26	--	--	--	--	0.03	0.13	--	--	--	--	--	--	--	--	--	20%	Yes	Yes	Yes	No
27	--	--	--	--	--	--	--	--	8.57	9.97	1.99	2.28	0.30	0.37	--	NA	Yes	Yes	Yes	No
28	--	--	0.14	0.14	0.44	0.44	--	--	--	--	--	--	--	--	--	20%	Yes	Yes	Yes	No
Total	22.4	23.7	53.4	54.1	20.1	20.3	23.1	26.6	26.1	31.2	13.5	15.5	10.1	10.6	4.19		Yes	Yes	Yes	No

¹ Refer to Conditions 3, 4 and 5 for unit specific record keeping/monitoring, and reporting requirements

² Refer to Condition 6 for unit specific compliance testing requirements

³ Emission Unit #25 can burn only one fuel at a time. maximum emissions rate from burning either natural gas or diesel used in table

- b) In accordance with 40CFR 60, Subpart I §60.92(a)(1), Emission Units #21 and 22 shall not discharge gases into the atmosphere, which contain particulate matter in excess of 90 mg/dscm (0.04 gr/dscf).
- c) In accordance with 40CFR 60, Subpart I §60.92 (a)(2), Emission Units #21 and 22 shall not exceed 20 percent opacity for any six (6) minute timed average.
- d) Pound per hour (lb/hr) Nitrogen Oxides (NO_x) and/or Carbon Monoxide (CO) emission rates for Emission Units #22 and 25 shall be based on a 3-hour average.
- e) Except for the haul roads (Emission Unit #27), the remaining units shall not cause or allow fugitive emissions that exceed 20 percent opacity six (6) minute time-average. This condition is pursuant to 20.11.5.12 NMAC.

3. **Record keeping:** Condition 3 has been placed in the permit in accordance with 20.11.41.19.B(4) NMAC and 20.11.41.19.C(8) and (9) NMAC to allow the Department to determine compliance with the terms and conditions of the permit. Compliance will be based on Department inspection of records and logs.
- a) Maintain records of the daily and monthly production throughput (in tons) for the HMA Plant. Throughput records shall be maintained in order to calculate daily, monthly, seasonal, and annual throughputs.
 - b) In December through February, maintain daily records of the number of hours of operation for the HMA Plant. These records shall also include the start and stop times for each day of plant operation. Hours of operation records shall be maintained in order to calculate daily and seasonal hours of operation.
 - c) Maintain records of the daily and monthly railcar and truck loading and unloading throughput in tons. Throughput records shall be maintained in order to calculate daily, monthly, seasonal, and annual throughputs.
 - d) Maintain data log of pressure differentials for the Emission Unit #22 baghouse to show that airflow is being maintained.
 - e) Record and log the daily haul truck traffic on roads PAGG and UPA. Haul truck traffic records shall be maintained in order to calculate hourly and annual traffic for Emission Unit #27.
 - f) Maintain records of the application of water and/or chemical surfactant to haul roads and daily application of water to raw material storage piles. If application of water is not required, the daily record shall indicate why application was not necessary (i.e. recent rain, snowfall, etc.).
 - g) Maintain records of the daily observation of fugitive dust and the potential for fugitive dust to carry beyond the property line and a description of measures taken to mitigate such issues.
 - h) Maintain records of the date and time when the Facility is shut down during high wind events.
4. **Monitoring:** Condition 4 has been placed in the permit in accordance with 20.11.41.19.B(4) NMAC and 20.11.41.19.C(3),(4),(5),(6) and (7) NMAC to allow the Department to determine compliance with the terms and conditions of the permit. Compliance will be based on Department inspection of equipment and logs. The permittee shall install the appropriate equipment deemed necessary by the Department for performance testing and continuous emissions monitoring.
- a) Monitor the daily, monthly, seasonal, and annual production throughput (in tons) for the HMA Plant.
 - b) Monitor the daily and seasonal hours of operation for the HMA Plant.
 - c) Monitor the daily, monthly, seasonal, and annual railcar and truck loading and unloading throughput in tons.
 - d) Monitor pressure differentials for the Emission Unit #22 baghouse to show that airflow is being maintained.
 - e) Monitor the daily haul truck traffic on roads PAGG and UPA.
 - f) Monitor application of water and/or chemical surfactant to haul roads and daily application of water to raw material storage piles.
 - g) Monitor fugitive dust emissions and the potential for fugitive dust to carry beyond the property line and measures taken to mitigate such issues.
 - h) Monitor the date and time when the Facility shuts down during high wind events.

5. **Reporting:** Condition 5 has been placed in the permit in accordance with 20.11.41.21 NMAC and 20.11.90 NMAC to allow the Department to determine compliance with the terms and conditions of the permit. Compliance will be based on timely submittal of the reports, notifications, and required information and shall be made in accordance with CFR Title 40, Part 60, Subpart A - General Provisions and 20.11.41.21 NMAC.

The permittee shall notify the Department in writing of:

- a) The anticipated startup of the source not less than thirty (30) days prior to that date (20.11.41.21.A(1) NMAC);
- b) The actual date of initial startup of the source within fifteen (15) days after the initial startup date (20.11.41.21.A(3) NMAC);
- c) All information labeled "TBD" cited under Condition 1.a) within thirty (30) days of installation;
- d) Any change in control or ownership, name, address, or contact information. The permittee may request an administrative permit revision in accordance with 20.11.41.28.A NMAC;
- e) Any permit update or correction as required by 20.11.41 NMAC no more than 60 days after the permittee knows or should have known about the condition that requires updating or correction of the permit (20.11.41.21.A(6) NMAC);
- f) Replacement of emission units for which an allowable emissions limit has been established in the permit may be requested through a technical permit revision in accordance with 20.11.41.28.B NMAC;
- g) The anticipated date of the switch of fuel in the hot mix drum (Emission Unit #15) not less than thirty (30) days prior to that date;
- h) Any relocation of the facility no fewer than 45 days before the date the permittee proposes to commence operations at a new location within Bernalillo County. Operation and relocation of the facility at a new location shall not commence until the Department has approved the request for relocation. The relocation notice must be made on a form provided by the Department and shall include:
 - i. An ambient air dispersion modeling analysis demonstrating compliance with National Ambient Air Quality Standards and New Mexico Ambient Air Quality Standards at the new location, unless the requirement is waived in writing by the Department; and,
 - ii. Proof that a weather-proof sign provided by the Department has been posted at the more visible of either the proposed or existing facility entrance or other location on the property boundary.
- i) An annual (January 1 through December 31 of the previous year) emissions inventory to include the annual hours of operation for the Facility together with descriptions of any reconfiguration of process technology and air pollution equipment by March 15 every year. The emissions inventory shall be calculated based on each individual pollutant's permitted pound per hour rate and reported for the actual hours of operation. Emission rates that are determined through compliance testing shall be used for all emission inventory reporting requirements (20.11.41.21.B NMAC); and,
- j) The permittee of a source having an excess emission shall provide the department with the following reports on forms provided by the department:
 - i. **INITIAL REPORT:** The permittee shall file an initial report, no later than the end of the next regular business day after the time of discovery of an excess emission pursuant to 20.11.49.15.A(1) NMAC;

ii. **FINAL REPORT:** The permittee shall file a final report, no later than 10 days after the end of the excess emission. If the period of an excess emission extends beyond 10 days, the permittee shall submit the final report to the department within 72 hours of the date and time the excess emission ceased. This condition is pursuant to 20.11.49.15.A(2) NMAC and 20.11.49.15.C NMAC; and,

iii. **ALTERNATIVE REPORTING:** If the Facility is subject to the reporting requirements of 40 CFR Parts, 60, 61, and 63 and the federal requirements duplicate the requirements of 20.11.49.15 NMAC, then the federal reporting requirements shall suffice. This condition is pursuant to 20.11.49.15.D NMAC.

6. Compliance Tests: Condition 6 has been placed in the permit in accordance with CFR Title 40, Part 60, Subpart A General Provisions, 20.11.41.22 NMAC and 20.11.90.13 NMAC. Compliance will be based on the satisfactory completion of the compliance tests, the timely submittal of the emission unit test results to the Department, and on meeting the emission limits specified in Condition 2.

a) For the Emission Unit #22 baghouse, initial compliance tests shall be conducted in order to demonstrate compliance with the standard for particulate matter of any gas pursuant to 40 CFR 60, Subpart I §60.92(a)(1), and the standard for opacity pursuant to 40 CFR 60, Subpart I §60.92(a)(2). Initial compliance tests of the hot mix drum baghouse shall be conducted utilizing fuel/waste oil or natural gas/propane, depending on which fuel is available in the field, within the timeframes specified in Condition I.6.e).

b) For the Emission Unit #22 baghouse, initial compliance tests shall also be conducted in order to demonstrate compliance of the lb/hr emission limits for NO_x and CO stated in Condition 2. Initial compliance tests of the hot mix drum baghouse shall be conducted utilizing fuel/waste oil or natural gas/propane, depending on which fuel is available in the field, within the timeframes specified in Condition I.6.e).

c) Annual compliance tests have been imposed on the Emission Unit #22 baghouse to demonstrate compliance with the standard for particulate matter of any gas pursuant to 40CFR 60, Subpart I §60.92(a)(1), and the standard for opacity pursuant to 40 CFR 60, Subpart I §60.92(a)(2). Annual compliance tests of the hot mix drum baghouse shall be conducted utilizing fuel/waste oil or natural gas/propane as the fuel. Compliance tests shall be conducted in accordance with EPA methods contained in Appendix A of 40CFR, Part 60, unless otherwise approved by the Department.

d) The initial compliance tests shall be conducted within one hundred eighty (180) days of initial startup of the facility and/or the substitution of equipment or within sixty (60) days of achieving maximum permitted production, whichever comes first. The owner or operator shall notify the Department at least fifteen (15) days prior to the test date and allow a representative of the Department to be present at the test. (20.11.41.22 NMAC and CFR Title 40, Subpart A "General Provisions").

e) Compliance tests for the remainder of the facility have not been imposed at this time.

f) Compliance tests may be reimposed if inspections of the source indicate non-compliance with permit conditions or the previous test showed non-compliance with permit conditions or was technically unsatisfactory.

g) The owner or operator shall notify the Department at least thirty (30) days prior to any test imposed on the permittee and allow a representative of the Department to be present at the test. (CFR 60.8 (d), Subpart A)

h) The permittee shall provide for the Department 's approval a written test protocol at least fifteen (15) days prior to the anticipated test date. The protocol shall describe the test methods to be used (including sampling locations), and shall describe data reduction procedures. Any variation from the established sampling and analytical procedures or from Facility operating conditions shall be presented for Department approval.

i) The tests shall be conducted at ninety (90%) percent or greater of the Facility's permitted capacity to demonstrate compliance with the permitted emission limits. Compliance testing at other than 90% production

levels shall be performed at the Department's request and/or approval. (40 CFR 60.8(c), Subpart A)

- j) One copy of the compliance test results for any imposed test shall be submitted to the Department Enforcement Section within thirty (30) days after the completion of testing. The test results shall conform to the standard format specified by the Department.
- k) The frequency of compliance tests for Emission Unit #22 may be reduced by the Department if the source has shown continual compliance with the emission limits stated in this permit and inspections of the source have demonstrated compliance with all conditions of this permit. The permittee may submit to the Department a written petition for a request to waive any compliance test imposed by the Department. The petition must be approved by the Department prior to waiving a compliance test.

Unit Specific Compliance Testing

Emission Unit Number	Initial Compliance Test	Frequency of Compliance Test
22 (Fuel waste oil as the fuel)	NOx, CO, Particulate Matter and Opacity	Annually for Particulate Matter and Opacity
22 (Natural gas/propane as the fuel)	NOx, CO, Particulate Matter and Opacity	Annually for Particulate Matter and Opacity
Remainder of the facility	Not Required*	Not Required*

* Compliance tests have not been imposed for this unit at this time, but may be reimposed if inspections of the source indicate non-compliance with permit conditions.

7. **Modifications:** Condition 7 has been placed in the permit in accordance with 20.11.41.7.U NMAC, to enable the Department to review proposed changes to the Facility which may constitute a permit modification prior to such changes. Compliance will be based on Department inspections and the submittal of a new permit application for any modification.

- a) Any future physical changes or changes in the method of operation which results in an increase in the pre-controlled emission rate may constitute a modification as defined by 20.11.41.7.U NMAC. No modification shall begin prior to issuance of a permit. Modifications or revisions to this permit shall be processed in accordance with 20.11.41 NMAC.

8. **Compliance Assurance/Enforcement:** All air pollution emitting facilities within Bernalillo County are subject to all applicable Albuquerque/Bernalillo County Air Quality Control Regulations, whether listed in this permit or not.

- a) The issuance of a permit or registration does not relieve the Facility from responsibility of complying with the provisions of the Air Quality Control Act, and the laws and regulations in force pursuant to the Act. (20.11.41.18 NMAC).
- b) Any conditions imposed upon the Facility as the result of a Construction Permit or any other permit issued by the Department shall be enforceable to the same extent as a regulation of the Board. (20.11.41.19.D NMAC).
- c) The Department is authorized to issue a compliance order requiring compliance and assessing a civil penalty not to exceed Fifteen Thousand and no/100 Dollars (\$15,000) per day of noncompliance for each violation, commence a civil action in district court for appropriate relief, including a temporary and permanent injunction. (74-2-12 NMSA).
- d) Scheduled and Unscheduled Inspection (74-2-13 NMSA) -- The Department will conduct scheduled and unscheduled inspections to insure compliance with the Air Quality Control Act, and the laws and regulations in force pursuant to the Act, and this Permit, and, upon presentation of credentials:
 - i. Shall have a right of entry to, upon, or through any premises on which an emission source is located or on

which any records required to be maintained by regulations of the Board or by any permit condition are located;

- ii. May at any reasonable time have access to and copy any records required to be established and maintained by Regulations of the Board, or any permit condition;
 - iii. May inspect any monitoring equipment and method required by Regulations of the Board or by any permit condition; and,
 - iv. Sample any emissions that are required to be sampled pursuant to Regulation of the Board, or any permit condition.
- e) Any credible evidence may be used to establish whether the Facility has violated or is in violation of any regulation of the Board, or any other provision of law. Credible evidence and testing shall include, but is not limited to (20.11.41.27A and B NMAC):
- i. A monitoring method approved for the source pursuant to 20.11.42 NMAC “Operating Permits” and incorporated into an operating permit;
 - ii. Compliance methods specified in the Regulations, conditions in a permit issued to the Facility, or other provision of law;
 - iii. Federally enforceable monitoring or testing methods, including methods in CFR Title 40 Parts 51, 60, 61, and 75; and,
 - iv. Other testing, monitoring or information-gathering methods that produce information comparable to that produced by any CFR method and approved by the Department and EPA.
9. **Posting of the Permit:** Compliance will be based on Department inspections of the Facility, which show that a copy of the permit has been posted in a visible location. A copy of this permit shall be posted in a visible location at the plant site at all times. The permit shall be made available to Department personnel for inspection upon request.
10. **Annual Fees--** Condition 10 has been placed in the permit in accordance with 20.11.2 NMAC to allow the Department to determine compliance with the terms and conditions of the permit. Compliance will be based on the receipt of the annual emissions fee due each year to the Department pursuant to 20.11.2 NMAC. Every owner or operator of a source that is required to obtain a source registration, a Construction permit, an operating permit, or a preconstruction permit shall pay an annual emissions fee pursuant to 20.11.2 NMAC, 20.11.40 NMAC, 20.1.41 NMAC, 20.11.42 NMAC, 20.11.60 NMAC, 20.11.61 NMAC, or 20.11.62 NMAC.

**Facility Wide Fee Pollutants
(Tons Per Year)**

Fee Pollutant	Facility Wide Fee Pollutant Totals in Tons per Year (TPY)
Carbon Monoxide (CO)	54
Oxides of Nitrogen (NO _x)	24
Total Suspended Particulate Matter (TSP)*	31
Oxides of Sulfur (SO _x)	27
Volatile Organic Compounds (VOC)	20
Hazardous Air Pollutants (HAP)	4
Facility Wide Fee Pollutants Totals (TPY)	160

*Note: This total includes controlled tons per year for storage piles and haul roads.

II. ADDITIONAL REQUIREMENTS

- 1. Permit Cancellation**-- The Department may cancel any permit if the construction or modification is not commenced within two (2) years from the date of issuance or if, during the construction or modification, work is suspended for a total of one (1) year pursuant to 20.11.41.20.B NMAC.

Application for permit modifications, relocation notices and items listed under **ADDITIONAL REQUIREMENTS** shall be submitted to:

Albuquerque Environmental Health Department
Air Quality Program
Permitting Section
P.O. Box 1293
Albuquerque, New Mexico 87103

Test protocols and compliance test reports shall be submitted to:

Albuquerque Environmental Health Department
Air Quality Program
Attention: Enforcement Supervisor
P.O. Box 1293
Albuquerque, New Mexico 87103

All reports shall be submitted to:

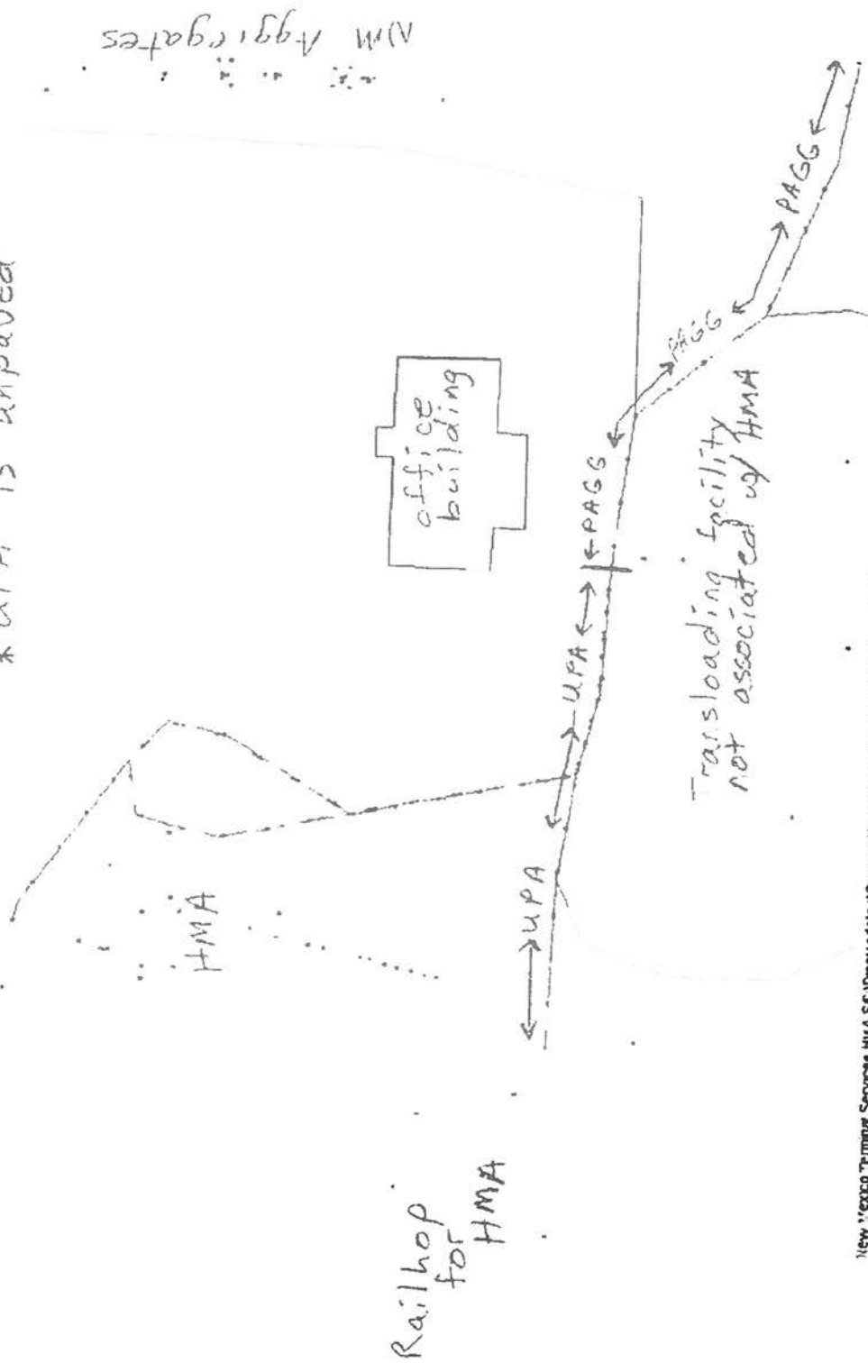
Albuquerque Environmental Health Department
Air Quality Program
Attention: Compliance Officer
P.O. Box 1293
Albuquerque, New Mexico 87103

Appendix A

Truck traffic/Roads for the HMA railhof

* PAGA is Paved

* UPA is unpaved



NIM Aggregates

Railhof for HMA

Truck traffic/roads that serve HMA

- * HMAP is paved
- * RAP and ASP do not need to be paved

NM Aggregates



Rail hop for HMA

Transloading facility not associated w/ HMA