

BEFORE THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
INDUSTRIAL SITING DIVISION

STATE OF WYOMING

IN THE MATTER OF THE INDUSTRIAL) OAH DOCKET NO. 14-072-020
SITING PERMIT APPLICATION OF) DOCKET NO. DEQ/ISC 13-02
SIMPLOT PHOSPHATES, LLC)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER
GRANTING PERMIT APPLICATION WITH CONDITIONS,
AND ALLOCATING IMPACT ASSISTANCE FUNDS

THIS MATTER came before the Industrial Siting Council (Council) on June 4, 2014, for a contested case evidentiary hearing on whether the Council should issue a permit for the construction and operation of the Rock Springs Ammonia Facility Project. Council members present for the proceedings included Chairman Shawn Warner, Sandy Shuptrine, Gregg Bierei, James Miller, Richard O’Gara, Peter Brandjord, and John Corra. Justin A. Daraie, Assistant Attorney General, was also present on the Council’s behalf. Deborah A. Baumer from the Office of Administrative Hearings served as the Hearing Examiner in the proceedings. The Applicant, Simplot Phosphates, LLC (Simplot), appeared by and through counsel, Jenifer E. Scoggin. The Industrial Siting Division (Division) appeared by and through counsel, Assistant Attorney General Andrew J. Kuhlmann. Four entities filed notices to become parties and participated in the evidentiary hearing, including the Sweetwater County Commissioners, represented by Gregory J. Blenkinsop; the City of Rock Springs, represented by Mayor Carl Demshar, Jr.; the City of Green River, represented by Marty Black; and the Wyoming Building and Construction Trades Council, represented by Tim Wells. Simplot’s Exhibits A (Application) through G, and the Division’s Exhibits 1 through 3 were admitted for purposes of the contested care hearing. The Council received no limited appearance statements in this case prior to the close of the

evidentiary hearing. The Council has considered the evidence and arguments of the Applicant and the parties, and makes the following findings:

I. JURISDICTION

Wyoming Statute § 35-12-106(a) (LexisNexis 2013) provides that “[n]o person shall commence to construct a facility, as defined in this chapter, in this state without first obtaining a permit for that facility from the council.”

“Industrial facility” or “facility” means any industrial facility with an estimated construction cost of at least one hundred ninety-three million, eight hundred thousand dollars (\$193,800,000.00). *See* Wyo. Stat. Ann. § 35-12-102(a)(vii) (LexisNexis 2013).

Wyoming Statute § 35-12-110(d) (LexisNexis 2013) provides that “[o]n receipt of an application, the director shall conduct a review of the application to determine if it contains all the information required by W.S. 35-12-109 and the rules and regulations.”

Wyoming Statute § 35-12-110(f) (LexisNexis 2013) provides that not more than ninety (90) days after receipt of an application for a permit, the director shall:

- (i) Schedule and conduct a public hearing, provided that no hearing shall be held until the state engineer has submitted a preliminary and final opinion as to the quantity of water available for the proposed facility pursuant to W.S. 35-12-108;
- (ii) Notify the applicant and local governments of the hearing . . . ;
- (iii) Cause notice of the hearing to be published in one (1) or more newspapers of general circulation within the area to be primarily affected by the proposed facility; and
- (iv) Hold the hearing at a community as close as practicable to the proposed facility. The provisions of W.S. 35-12-111, 35-12-112 and 35-12-114 apply to the hearing.

The contested case procedures of the Wyoming Administrative Procedure Act apply to the hearing. Wyo. Stat. Ann. § 35-12-112 (LexisNexis 2013).

Wyoming Statute § 35-12-113(a) (LexisNexis 2013) provides that “within forty-five (45) days from the date of completion of the hearing the council shall make complete findings, issue an opinion and render a decision upon the record, either granting or denying the application as filed, or granting it upon terms, conditions or modifications of the construction, operation or maintenance of the facility as the council deems appropriate.”

On March 17, 2014, Simplot submitted an application to the Division for an Industrial Siting permit to allow construction and operation of the Ammonia Facility Project to be located at the Simplot Phosphates Rock Springs Fertilizer Complex in Sweetwater County, Wyoming, five miles south of Rock Springs. At a previously held jurisdictional meeting on April 23, 2013, Simplot showed cost estimates for the total construction were in excess of the \$193.8 million statutory jurisdictional limit of the Council. Therefore, this Council has jurisdiction to hear and decide this matter.

II. STATEMENT OF THE CASE

Simplot operates a fertilizer manufacturing complex outside of Rock Springs. One of the major raw materials consumed in the Rock Springs complex is anhydrous ammonia, which is currently being purchased from an outside source and delivered to the complex in rail cars.

On March 17, 2014, Simplot filed its Application for an Industrial Siting permit pursuant to Wyoming Statute § 35-12-109 (LexisNexis 2013) to construct a 600-ton-per-day (tpd) anhydrous ammonia production facility at its Rock Springs complex. Simplot determined that on-site ammonia production would provide for a more economical operation of the complex.

As originally submitted, the Division's staff found that the Application was lacking some information and notified Simplot of the deficiencies. Upon submittal of the additional information, the Division's staff determined that Simplot's Application was complete and in full compliance with Wyoming law and was ready for the Council's determination as to whether a permit should be issued. Simplot requested the Council approve the Application as submitted, with the additional conditions proposed by the Division. Four parties appeared at the evidentiary hearing and were in favor of issuing the permit.

III. ISSUES AND CONTENTIONS

The sole issue in this case is whether Simplot has proven, by a preponderance of the evidence, that the Application regarding the Ammonia Facility Project meets the requirements of the Wyoming Industrial Development Information and Siting Act, Wyoming Statutes §§ 35-12-101 through -119 (LexisNexis 2013), and the Industrial Development Information and Siting Rules and Regulations, Chapter 1, Section 9 (2011) (Division's Rules) governing the proposed Ammonia Facility Project. If the Council decides to issue the Industrial Siting permit, it must also decide what, if any, conditions to place on the permit.

Simplot asserted its Application (in conjunction with the supplemental exhibits) was complete and in compliance with all applicable laws, would not pose a threat of serious injury to the environment, and would not substantially impair the health, safety, or welfare of the inhabitants in the affected area.

The Sweetwater County Commissioners, City of Rock Springs, City of Green River, and Wyoming Building and Construction Trades Council were all in support of the Ammonia Facility Project.

IV. FINDINGS OF FACT

A. Documentary Evidence

1. Simplot has operated a fertilizer complex five miles south of Rock Springs since 1986. The facility produces about 400,000 tons of phosphorus pentoxide annually, which is used to produce liquid super phosphoric acid and solid ammonium phosphate high-quality fertilizers. *Simplot's Exhibit A, Application at ES-1; p. 1-1.*

2. To produce the high-quality fertilizer, phosphate ore is mined 12 miles north of Vernal, Utah, where it is crushed, washed, finely ground, and concentrated. The ore is then mixed with water to form a slurry, and then shipped 96 miles through a pressurized pipeline to the manufacturing plant five miles south of Rock Springs. With this ore, two other key raw ingredients are used in the production of fertilizer: sulfur (a byproduct from Wyoming oil fields) and anhydrous ammonia (made from natural gas). Simplot currently purchases the ammonia from an outside source, and it is normally delivered in rail cars. *Simplot's Exhibit A, Application at p. 1-1; p. 2-1.*

3. On March 17, 2014, Simplot filed its Application with the Division requesting a permit to allow construction and operation of the Ammonia Facility Project. Simplot proposes to own, construct, and operate the Ammonia Facility Project on lands entirely owned by Simplot at its Simplot Phosphates Rock Springs Fertilizer Complex. The proposed Ammonia Facility Project will include engineering, procurement, and construction of all equipment and facilities necessary for the 600-tpd ammonia production facility. *Simplot's Exhibit A, Application at ES-1.*

4. Linde Engineering North America (Linde) will be constructing the 600-tpd ammonia facility in a single phase of construction over a 25-month period of time. Construction is anticipated to commence in the third quarter of 2014 and continue through the third quarter

2016. Construction is anticipated to peak at 460 workers during the first quarter of 2016. *Division's Exhibit 1, p. 4, 8; Simplot's Exhibit A, Application at ES-1; ES-2; Section 3.*

5. Prior to Simplot filing its Application in this matter, company representatives and the Division's staff conducted a jurisdictional meeting on April 23, 2013, to discuss the details of the Ammonia Facility Project. The Division reviewed the financial budget for the Ammonia Facility Project and determined that the cost exceeded the statutory dollar threshold of \$193,800,000.00. The Division notified the Applicant by mail on April 30, 2013, that the project was subject to the jurisdiction of the Wyoming Industrial Development Information and Siting Act, Wyoming Statutes §§ 35-12-101 through -119, and that a permit was required to construct and operate the facility. *Simplot's Exhibit A, Application at ES-1; Division's Exhibit 1, p. 4.*

6. All of the materials constituting the filing of the Application were received by the Division on March 17, 2014. The Application consisted of 60 hard copies of the Application document, *Wyoming Industrial Development Information and Siting Act Section 109 Permit Application of Simplot Phosphates, LLC Rock Springs Ammonia Facility Project*; 30 electronic versions of that document; the payment of the application fee in the amount of \$66,080.00, as required by Wyoming Statute § 35-12-109(b); and a letter of transmittal by Martin Hunt, General Manager of Simplot, requesting a permit and attesting to the truthfulness and accuracy of the Application. *Division's Exhibit 1, pp. 5, 17-18.*

7. The Division staff checked the contents of the Application against the applicable statutes and rules of the Division and determined that additional information was necessary. On April 2, 2014, the Division sent Simplot a Notice of Deficiency requesting information regarding ten separate, enumerated items. On May 2, 2014, Simplot provided a response to the Division's Notice of Deficiency, which the Division's staff incorporated into the Application. On May 5,

2014, Simplot was notified by the Division that the Application was complete. *Division's Exhibit 1, pp. 7-12; A-11 – A-26.*

8. Upon review of the Application, the Administrator of the Division determined the study area for potential impacts of the Ammonia Facility Project included Sweetwater County. The Administrator determined the area primarily affected was the facility site, the municipalities of Rock Springs and Green River, and the inclusive area of Sweetwater County. Examination copies of the Application were then filed on March 18, 2014, with the Sweetwater County Clerk. Also on March 18, 2014, the Division's staff distributed copies of the Application to the various state agencies pursuant to Wyoming Statute § 35-12-110(b) (LexisNexis 2013) to obtain information and recommendations relative to the impact of the proposed Ammonia Facility Project as it applies to each agency's area of expertise. All agencies timely responded to the inquiry and none had any objection to the Ammonia Facility Project. *Division's Exhibit 1, pp. 5-11; Exhibit 2.*

9. Pursuant to Wyoming Statute § 35-12-110, the Division's staff placed a legal advertisement in the *Rock Springs Rocket-Miner* on March 19 and 25, 2014, and April 12 and 19, 2014, and the *Casper Star Tribune* on March 20 and 26, 2014, and April 15 and 20, 2014, publishing the location and description of the Ammonia Facility Project, the locations where the Application was available for review, and notice of the Council's hearing on the Application. *Division's Exhibit 1, p. 7; A-4 – A-11.*

10. From August 6, 2013, until the March 17, 2014 filing of the Application, Simplot officials visited with state agencies and the governing bodies of the local governments in the areas primarily affected to discuss the Ammonia Facility Project. A list of those meetings is found in Table 4-1 on pages 4-1 – 4-3 of Simplot's Application. An open house meeting for

public inquiry was held at the Sweetwater County Fire District Number One in Rock Springs on February 6, 2014. A list of all meetings and details of the public and government involvement is found in Section 4, *Public Involvement*, of the Application. *Simplot's Exhibit A, Application, Section 4, Public Involvement; Appendix C, Public Involvement; Division's Exhibit 1, pp. 4-5.*

11. Workforce and delivery vehicles are expected to primarily use I-80 and State Highway 430 to reach the existing facility's road network. All deliveries will be trucked directly to the project site using semi-tractor trailers. A study analyzed the potential impacts of construction and operation traffic on local roadway systems and determined impacts are expected to be minor. *Simplot's Exhibit A, Application at ES-2; p. 2-2.*

12. The water supply needed for the operation of the Ammonia Facility Project, approximately 150 gallons per minute of municipal water, will be within the currently permitted level for the Simplot Phosphates Rock Springs Fertilizer Complex. Because the Project proposes to use less than 800 acre-feet of waters of the state annually, Simplot was not required to submit a water yield or water supply analysis to the State Engineer in accordance with Wyoming Statute § 35-12-108 (LexisNexis 2013). *Simplot's Exhibit A, Application at ES-2; Section 3-11; Division's Exhibit 1, p. 10.*

13. According to the Application filed by Simplot, upon approval by this Council and upon securing all other required permits, formal commencement of construction of the Ammonia Facility Project is planned for the third quarter of 2014 and will continue through the third quarter of 2016. Construction manpower is anticipated to peak at 460 workers during the first quarter of 2016. During the operations phase, an estimated additional workforce of approximately 27 full-time positions will be needed to fully staff the ammonia production facility. Simplot provided confirmations and commitments from hotels in the area primarily

affected to accommodate the workforce. *Simplot's Exhibit A, Application at ES-2; Section 3, Construction and Operation; and Appendix D, Housing Commitment.*

14. The Ammonia Facility Project is anticipated to have no significant impact on water, sewer, roads, electrical lines, or other local infrastructure. *Simplot's Exhibit 1, Application at ES-3; Section 5, Socioeconomic Baseline and Impacts.*

15. Impact assistance payments are expected to average \$26,817.00 each month until the project is 90 percent complete. The Division recommended the distribution of the funds, as it was agreed to between the counties, at 100 percent to Sweetwater County and its municipalities, pursuant to an agreement reached among Sweetwater County, the City of Rock Springs, and the City of Green River. *Simplot's Exhibit A, Application at Appendix B, Impact Assistance Calculation, p. 4; Division's Exhibit 1, pp. 12; A-31.*

16. The Industrial Siting Division's Report submitted as Exhibit 1 by the Division reflected that after review of the Application and Simplot's May 2, 2014 response addressing the deficiencies reflected in Attachment 5, the Application was complete and suitable for the Council's consideration. The report also recommended the Council place 14 standard conditions on the permit. *Division's Exhibit 1, pp. 9-12; A-13 – A-25; Exhibit 3.*

B. Testimonial Evidence

i. Applicant's Witnesses

Mike Prevedel

17. Mike Prevedel (Prevedel) is a senior project manager with Simplot and has been employed by Simplot for 16 years. Prevedel is responsible for all aspects of the Ammonia Facility Project including safety; environmental concerns; the permitting process; engineering and design of the plant; integration of the new Ammonia Facility Project with the existing

fertilizer manufacturing plant; utilities; project scheduling; cost estimating, tracking, and reporting; and staffing. *Transcript of Proceedings (hereinafter Tr. of Proc.)*, pp. 24-26.

18. Prevedel confirmed that construction would begin the third quarter of 2014 and would be ninety percent complete by the second quarter of 2016. Construction would be complete the third quarter of 2016. Prevedel anticipated a beginning construction workforce of 48 people in August 2014, a peak construction workforce of 460 in March 2016, and an ending construction workforce of 38 people in August 2016. Simplot has an agreement with Linde, the general contractor on the project, to use local contractors wherever possible. *Tr. of Proc.*, pp. 26-28.

19. Deliveries for construction will be made to the site using Interstate 80 to the Airport Exit and then State Highway 270. Workforce will come almost exclusively from Rock Springs via State Highway 430. An extensive traffic analysis was conducted by the Wyoming Department of Transportation (WYDOT), and Prevedel was not aware of any outstanding issues concerning the anticipated travel routes. *Tr. of Proc.*, pp. 30-31.

20. Prevedel further testified that Simplot considers safety a top priority and has a robust safety program. Simplot will work with local law enforcement to provide additional patrolling of roads near the plant. Prevedel also agreed that the 14 standard conditions proposed by the Division were reasonable and appropriate. *Tr. of Proc.*, pp. 30-34.

Darin Howe

21. Darin Howe (Howe) is the Environmental Health Safety Security Manager for Simplot and oversees the regulatory compliance programs. Howe has been working for Simplot for 25 years. *Tr. of Proc.*, pp. 40-41.

22. Howe testified that the Ammonia Facility Project will be built on private property owned by Simplot. In addition to the Industrial Siting permit, the project will require permits from the Wyoming Water Quality Division for large construction and stormwater permits, and an air quality permit. The stormwater permit was currently under review, and the Department of Environmental Quality issued a draft air quality permit. *Tr. of Proc., pp. 41-43.*

23. The solid waste associated with the construction of the project will go to the Sweetwater Solid Waste District Number One Landfill. *Tr. of Proc., p. 44.*

24. According to Howe, in the course of developing the application, Simplot met with the Sweetwater County Commissioners twice and conducted workshops providing an overview and facts sheet regarding the project with the City of Rock Springs and the City of Green River. All issues expressed by the local communities were addressed, and the local governments provided letters of support for the Ammonia Facility Project. *Tr. of Proc., pp. 45-48.*

25. Howe confirmed that Simplot has adequate resources and financial capability for construction and reclamation of the plant. *Tr. of Proc., p. 49.*

26. With regard to environmental impacts, Howe testified that studies and evaluations were conducted addressing the impacts concerning air, water, noise, soils, visual resources, wildlife, and cumulative impacts. Minimal, if any, impacts were identified. *Tr. of Proc., pp. 49-51.*

27. Howe confirmed that Simplot has a team of safety professionals that have significant experience with ammonia, and an extensive audit of the safety management program has been conducted to help create emergency response plans. *Tr. of Proc., pp. 51-54.*

28. Howe agreed to the conditions for the permit as set forth in the Division's Exhibit 3. Howe also stated his opinion that construction of the Ammonia Facility Project would comply

with all applicable laws, would not substantially impair the health, safety, or welfare of the inhabitants or the expected inhabitants, and would not pose a serious injury to the environment or the social and economic condition of the inhabitants. *Tr. of Proc.*, pp. 54-56.

Andre Ritter

29. Andre Ritter (Dr. Ritter) holds a Ph.D in chemical engineering and is a Senior Lead Engineer for the process and environmental safety department at Linde AG, Engineering Division. Dr. Ritter is involved in all aspects of the process and environmental safety for the ammonia plant. Dr. Ritter's main focus is to prevent any type of ammonia being released into the atmosphere, and then to mitigate the consequences of such scenarios. Dr. Ritter utilizes a Safety Instrumented System in the ammonia plant to ensure the plant is safe in case of fires, flares, gas leaks, or explosions by installing different ammonia valve stations on the ammonia tank for emergency relief. *Tr. of Proc.*, pp. 70-87.

30. Dr. Ritter also stated his opinion that, based upon his analysis and understanding of the safety design for the project, the proposed facility would not substantially impair the health, safety, or welfare of the inhabitants or the expected inhabitants, and would not pose a serious injury to the environment or the social and economic condition of the inhabitants. *Tr. of Proc.*, p. 87.

Joseph Hammond

31. Joseph Hammond (Hammond) is a Principal Project Manager for CH2M HILL Engineers and prepared the Application in this matter. Hammond explained the various sections and appendices of the Application, including the additional information provided by the Applicant in Exhibits B and C. Taken together, the Application and exhibits explained the purpose and description of the project, socioeconomic analysis of impacts, construction and

operation of the project, public involvement, and a transportation analysis. *Tr. of Proc.*, pp. 96-108.

32. According to Hammond, all the deficiencies in the Application that were identified by the Division in its Exhibit 1 have been addressed, and the Application was complete. Hammond identified the areas primarily affected to be Sweetwater County, including the cities of Rock Springs and Green River. The area of influence was determined based upon a commuting distance of 60 miles or less, as well as the availability of temporary housing. *Tr. of Proc.*, pp. 98-99.

33. According to Hammond, the project creates 70 local jobs and 128 direct jobs in the local area during the 25-month construction period, as well as 27 permanent jobs once the plant is operating. The sales, use, and lodging taxes for the period of construction is approximately \$11 million to the local area, with \$7.7 million in advalorem taxes for the first five-year period. *Tr. of Proc.*, pp. 99-100.

34. Section 5 and Appendix D of the Application contain details of the anticipated housing accommodations. Even considering the cumulative impact of other projects in the area, there was adequate housing availability based upon the schedule presented in the Application. According to Hammond, there are 2,539 lodging units in the Rock Springs-Green River area, including 2,200 hotel rooms. *Tr. of Proc.*, pp. 101-103.

35. Hammond also testified regarding the detailed traffic analysis conducted for the project which is reflected in Simplot's Exhibit E. The revised analysis resulted after comments from the local WYDOT district engineer reviewed Simplot's traffic analysis. As a result, no outstanding issues currently existed regarding traffic issues or issues with any other state agencies. *Tr. of Proc.*, pp. 106-109; 124-127.

36. Hammond also confirmed that all state agencies listed in the relevant statute were contacted, and all responses were supportive of the Ammonia Facility Project. Hammond also agreed with the standard permit conditions as set forth in the Division's Exhibit 3. *Tr. of Proc., pp. 109-110.*

37. In Hammond's professional opinion, the Application complied with all state and local laws, and the rules and regulations of the Industrial Siting Council. Additionally, based upon the results of the environmental and socioeconomic analyses performed in this matter, the project would not substantially impair the health, safety, or welfare of the inhabitants. *Tr. of Proc., pp. 110-111.*

ii. Division's Witness

Kimber Wichmann

38. Kimber Wichmann (Wichmann) is the Principal Economist with the Department of Environmental Quality, Industrial Siting Division. Wichmann received and processed the Application in this case. Wichmann confirmed that as part of the process, a jurisdictional meeting was held with the Applicant on April 23, 2013. A determination was made that the Ammonia Facility Project cost was in excess of the statutory threshold for obtaining an Industrial Siting permit. The Application for the Project was subsequently filed on March 17, 2014. *Tr. of Proc., pp. 134-136.*

39. According to Wichmann, after review of the Application, the Division issued a Notice of Deficiency to Simplot identifying ten deficiencies in the Application. The Division requested additional documentation as outlined on page eight of the Division's Exhibit 1, including references to the supporting data and analysis in the executive summary in the Application; information on the staging areas, construction material sources, and material storage

piles; labor data on safety, supervision, and inspection positions; workforce tables broken down by specific trade; a statement of when the construction would be ninety percent complete; financial capability to construct and reclaim the facility; clarification on disposal of nonhazardous waste; and clarification on the hiring personnel policies. Simplot's response to the request for additional information was provided as Attachment 5 in the Division's Exhibit 1, and as a result, the Application was thereafter deemed complete. *Tr. of Proc.*, pp. 136-138.

40. Wichmann further testified that the Application contained the statutory requirements and criteria pursuant to Wyoming Statute § 35-12-109. *Tr. of Proc.*, p. 138.

41. Wichmann further testified that all state agencies responded to a request for comments on the Application. No state agency recommended denial of the Application. Wichmann recommended permit conditions as set forth in the Division's Exhibit 3, as the Application was complete per the statutory requirements. The permit conditions set forth in paragraphs 1 through 14 are standard permit conditions. Wichmann agreed with Simplot's witnesses that a special condition did not need to be included in the permit regarding peak workflow traffic in Rock Springs. *Tr. of Proc.*, pp. 139-143.

42. Finally, Wichmann testified as to the distribution of impact assistance funds. The split recommended by the areas primarily affected was agreeable to the Division. *Tr. of Proc.*, p. 141.

iii. Sweetwater County's Witness

Greg Blenkinsop

43. Greg Blenkinsop (Blenkinsop) is the Deputy Sweetwater County Attorney. Blenkinsop testified that the Sweetwater County Commissioners strongly support the Ammonia Facility Project and requested the Council grant the permit. According to Blenkinsop and a letter

from Wally Johnson, Chairman of the Sweetwater County Board of County Commissioners, Simplot has been a good partner with Sweetwater County by bringing jobs, increased tax support, and growth to the community. *Tr. of Proc., p. 150-151; Simplot's Exhibit A, Application at Appendix F, Letters of Support.*

iv. City of Rock Springs' Witness

Carl Demshar, Jr.

44. Carl Demshar Jr. (Mayor Demshar) is the Mayor of the City of Rock Springs. Mayor Demshar stated that Simplot is a major employer in Rock Springs, and he is very much in support of the Ammonia Facility Project. Mayor Demshar also wrote a letter outlining the City of Rock Springs' support of the Ammonia Facility Project. *Tr. of Proc., p. 151; Simplot's Exhibit A, Application at Appendix F, Letters of Support.*

v. City of Green River's Witness

Marty Black

45. Marty Black (Black) is the City Administrator appearing on behalf of the mayor and city council for the City of Green River. Black testified that Green River was very supportive of the Ammonia Facility Project and believed the construction and operation of the Ammonia Facility Project would provide investment in the local community, employment, and additional tax revenue. Black testified that Green River's housing stock, both on a permanent and part-time basis was sufficient, in combination with Rock Springs, to support the construction and operation of the facility. *Tr. of Proc., pp. 152-153; Simplot's Exhibit A, Application at Appendix F, Letters of Support.*

vi. Wyoming Building and Construction Trades Council

Tim Wells

46. Tim Wells (Wells) testified on behalf of the Wyoming Building and Construction Trades Council (WBCTC). According to Wells, the WBCTC supports the Ammonia Facility Project, and the use of the local contractor base to help stimulate the local economy. *Tr. of Proc.*, p. 153.

47. All findings of fact set forth in the following Conclusions of Law section shall be considered a finding of fact and are fully incorporated into this paragraph.

V. CONCLUSIONS OF LAW

A. Principles of Law

48. Simplot bears the burden of proof in the proceedings herein. “The general rule in administrative law is that, unless a statute otherwise assigns the burden of proof, the proponent of an order has the burden of proof.” *JM v. Dep’t of Family Servs.*, 922 P.2d 219, 221 (Wyo. 1996) (citation omitted); *Penny v. State, Wyo. Mental Health Professions Licensing Bd.*, 2005 WY 117, 120 P.3d 152 (Wyo. 2005).

49. Wyoming Statute § 35-12-109(a)(i)-(xxi) (LexisNexis 2013) provides that an application for a permit shall be filed with the Division and contain the following information:

(i) The name and address of the applicant, and, if the applicant is a partnership, association or corporation, the names and addresses of the managers designated by the applicant responsible for permitting, construction or operation of the facility;

(ii) The applicant shall state that to its best knowledge and belief the application is complete when filed and includes all the information required by W.S. 35-12-109 and the rules and regulations, except for any requirements specifically waived by the council pursuant to W.S. 35-12-107;

- (iii) A description of the nature and location of the facility;
- (iv) Estimated time of commencement of construction and construction time;
- (v) Estimated number and job classifications, by calendar quarter, of employees of the applicant, or contractor or subcontractor of the applicant, during the construction phase and during the operating life of the facility. Estimates shall include the number of employees who will be utilized but who do not currently reside within the area to be affected by the facility;
- (vi) Future additions and modifications to the facility which the applicant may wish to be approved in the permit;
- (vii) A statement of why the proposed location was selected;
- (viii) A copy of any studies which may have been made of the environmental impact of the facility;
- (ix) Inventory of estimated discharges including physical, chemical, biological and radiological characteristics;
- (x) Inventory of estimated emissions and proposed methods of control;
- (xi) Inventory of estimated solid wastes and proposed disposal program;
- (xii) The procedures proposed to avoid constituting a public nuisance, endangering the public health and safety, human or animal life, property, wildlife or plant life, or recreational facilities which may be adversely affected by the estimated emissions or discharges;
- (xiii) An evaluation of potential impacts together with any plans and proposals for alleviating social and economic impacts upon local governments or special districts and alleviating environmental impacts which may result from the proposed facility. The evaluations, plans and proposals shall cover the following:
 - (A) Scenic resources;
 - (B) Recreational resources;
 - (C) Archaeological and historical resources;
 - (D) Land use patterns;

- (E) Economic base;
- (F) Housing;
- (G) Transportation;
- (H) Sewer and water facilities;
- (J) Solid waste facilities;
- (K) Police and fire facilities;
- (M) Educational facilities;
- (N) Health and hospital facilities;
- (O) Water supply;
- (P) Other relevant areas;
- (Q) Agriculture;
- (R) Terrestrial and aquatic wildlife;
- (S) Threatened, endangered and rare species and other species of concern identified in the state wildlife action plan as prepared by the Wyoming game and fish department.

- (xiv) Estimated construction cost of the facility;
- (xv) What other local, state or federal permits and approvals are required;
- (xvi) Compatibility of the facility with state or local land use plans, if any;
- (xvii) Any other information the applicant considers relevant or required by council rule or regulation;
- (xviii) A description of the methods and strategies the applicant will use to maximize employment and utilization of the existing local or in-state contractors and labor force during the construction and operation of the facility;

(xix) Certification that the governing bodies of all local governments which will be primarily affected by the proposed facility were provided notification, a description of the proposed project and an opportunity to ask the applicant questions at least thirty (30) days prior to submission of the application;

(xx) For facilities permitted pursuant to W.S. 35-12-102(a)(vii)(E) or (F), a site reclamation and decommissioning plan, which shall be updated every five (5) years, and a description of a financial assurance plan which will assure that all facilities will be properly reclaimed and decommissioned. All such plans, unless otherwise exempt, shall demonstrate compliance with any rules or regulations adopted by the council pursuant to W.S. 35-12-105(d) and (e);

(xxi) Information demonstrating the applicant's financial capability to decommission and reclaim the facility.

50. Wyoming Statute § 35-12-110(b)(i)-(xxiii) (LexisNexis 2013) requires that the division obtain information and recommendations from the following state agencies relative to the impact of the proposed facility as it applies to each agency's area of expertise:

(i) Wyoming department of transportation;

(ii) Public service commission;

....

(iv) Game and fish department;

(v) Department of health;

(vi) Department of education;

(vii) Office of state engineer;

....

(ix) Wyoming state geologist;

(x) Wyoming department of agriculture;

(xi) Department of environmental quality;

....

(xiv) The University of Wyoming;

(xv) Department of revenue;

(xvi) The Wyoming business council; (xvii)

Department of workforce services; (xviii)

Office of state lands and investments; (xix)

Department of workforce services;

(xx) Department of state parks and cultural resources;

(xxi) Department of fire prevention and electrical safety;

(xxii) Department of family services;

(xxiii) Oil and gas conservation commission.

51. Wyoming Statute § 35-12-110(c) (LexisNexis 2013) provides:

The information required by subsection (b) of this section shall be provided by the agency from which it is requested not more than sixty (60) days from the date the request is made and shall include opinions as to the advisability of granting or denying the permit together with reasons therefor, and recommendations regarding appropriate conditions to include in a permit, but only as to the areas within the expertise of the agency. Each agency which has regulatory authority over the proposed facility shall provide to the council a statement defining the extent of that agency's jurisdiction to regulate impacts from the facility, including a statement of the agency's capability to address cumulative impacts of the facility in conjunction with other facilities. The statement of jurisdiction from each agency is binding on the council.

52. Wyoming Statute § 35-12-110(d) (LexisNexis 2013) provides that:

On receipt of an application, the director shall conduct a review of the application to determine if it contains all the information required by W.S. 35-12-109 and the rules and regulations. If the director determines that the application is incomplete, he shall within thirty (30) days of receipt of the application notify the applicant of the specific deficiencies in the application. The applicant shall provide the additional information

necessary within thirty (30) days of a receipt of a request for additional information from the director.

53. Wyoming Statute § 35-12-110(f)(i)-(iv) (LexisNexis 2013) provides that not more than ninety (90) days after receipt of an application for a permit, the director shall:

(i) Schedule and conduct a public hearing, provided that no hearing shall be held until the state engineer has submitted a preliminary and final opinion as to the quantity of water available for the proposed facility pursuant to W.S. 35-12-108;

(ii) Notify the applicant and local governments of the hearing . . . ;

(iii) Cause notice of the hearing to be published in one (1) or more newspapers of general circulation within the area to be primarily affected by the proposed facility; and

(iv) Hold the hearing at a community as close as practicable to the proposed facility. The provisions of W.S. 35-12-111, 35-12-112 and 35-12-114 apply to the hearing.

54. Pursuant to Wyoming Statute § 35-12-111(a)-(e) (LexisNexis 2013), the parties to a permit proceeding include:

(i) The applicant;

(ii) Each local government entitled to receive a copy of the application under W.S. 35-12-110(a)(i);

(iii) Any person residing in a local government entitled to receive a copy of the application under W.S. 35-12-110(a)(i) including any person holding record title to lands directly affected by construction of the facility and any nonprofit organization with a Wyoming chapter, concerned in whole or in part to promote conservation or natural beauty, to protect the environment, personal health or other biological values, to preserve historical sites, to promote consumer interests, to represent commercial, agricultural and industrial groups, or to promote the orderly development of the areas in which the facility is to be located. In order to be a party the person or organization must file with the office a notice of intent to be a party not

less than twenty (20) days before the date set for the hearing.

(b) Any party identified in paragraph (a)(iii) of this section waives his right to be a party if he does not participate orally at the hearing. Any party identified in paragraph (a)(ii) of this section waives its right to be a party unless the local government files a notice of intent to be a party with the office not less than twenty (20) days before the date set for the hearing.

(c) Any person may make a limited appearance in the proceeding by filing a statement in writing with the council prior to adjournment of the hearing. A statement filed by a person making a limited appearance shall become part of the record and shall be made available to the public. No person making a limited appearance under this subsection is a party to the proceeding.

(d) No state agency other than the industrial siting division shall act as a party at the hearing. Members and employees of all other state agencies and departments may file written comments prior to adjournment of the hearing but may testify at the hearing only at the request of the council, the industrial siting division or any party.

(e) Any person described in W.S. 35-12-111(a)(ii) or (iii) who participated in the public hearing under W.S. 35-12-107 may obtain judicial review of a council decision waiving all or part of the application requirements of this chapter.

55. Pursuant to Wyoming Statute § 35-12-113(a)-(f) (LexisNexis 2013), the council shall:

(a) Within forty-five (45) days from the date of completion of the hearing the council shall make complete findings, issue an opinion and render a decision upon the record, either granting or denying the application as filed, or granting it upon terms, conditions or modifications of the construction, operation or maintenance of the facility as the council deems appropriate. The council shall not consider the imposition of conditions which address impacts within the area of jurisdiction of any other regulatory agency in this state as described in the information provided in W.S. 35-12-110(b), unless the other regulatory agency requests that conditions be imposed. In considering the imposition of conditions requested by other agencies upon private lands, the council shall consider in the same manner and to the same extent any comments presented by an affected landowner. The council may consider direct or cumulative impacts not within the area of jurisdiction of another regulatory agency in

this state. The council shall grant a permit either as proposed or as modified by the council if it finds and determines that:

(i) The proposed facility complies with all applicable law;

(ii) The facility will not pose a threat of serious injury to the environment nor to the social and economic condition or inhabitants or expected inhabitants in the affected area;

(iii) The facility will not substantially impair the health, safety or welfare of the inhabitants; and

(iv) The applicant has financial resources to decommission and reclaim the facility. . . .

(b) No permit shall be granted if the application is incomplete.

(c) If the council determines that the location of all or part of the proposed facility should be modified, it may condition its permit upon that modification, provided that the local governments, and persons residing therein, affected by the modification, have been given reasonable notice of the modification.

(d) The council shall issue with its decision, an opinion stating in detail its reasons for the decision. If the council decides to grant a permit for the facility, it shall issue the permit embodying the terms and conditions in detail, including the time specified to commence construction, which time shall be determined by the council's decision as to the reasonable capability of the local government, most substantially affected by the proposed facility, to implement the necessary procedures to alleviate the impact. A copy of the decision shall be served upon each party.

(e) A permit may be issued conditioned upon the applicant furnishing a bond to the division in an amount determined by the director from which local governments may recover expenditures in preparation for impact to be caused by a facility if the permit holder does not complete the facility proposed. The permit holder is not liable under the bond if the holder is prevented from completing the facility proposed by circumstances beyond his control.

(f) Within ten (10) days from the date of the council's decision, a copy of the findings and the council's decision shall be served upon the applicant, parties to the hearing and local governments to be substantially affected by the proposed facility and filed with the county clerk of the county or counties to be primarily affected by the proposed facility. Notice of the

decision shall be published in one (1) or more newspapers of general circulation within the area to be affected by the proposed facility.

56. The Industrial Development Information and Siting Rules and Regulations (2011), Chapter 1 provide, in part:

Section 9. Application Information to be Submitted.

In accordance with W.S. 35-12-109, the application shall contain the information required by the act with respect to both the construction period and online life of the proposed industrial facility and the following information the Council determines necessary:

(a) The application shall state the name, title, telephone number, mailing address, and physical address of the person to whom communication in regards to the application shall be made.

(b) A description of the specific, geographic location of the proposed industrial facility. The description shall include the following:

(i) Preliminary site plans at an appropriate scale indicating the anticipated location for all major structures, roads, parking areas, on-site temporary housing, staging areas, construction material sources, material storage piles and other dependent components; and

(ii) The area of land required by the industrial facility and a land ownership map covering all the components of the proposed industrial facility.

(c) A general description of the major components of the proposed industrial facility such as boilers, steam generators, turbine generators, cooling facilities, production equipment, and dependent components.

(d) A description of the operating nature of the proposed industrial facility, the expected source and quantity of its raw materials, and energy requirements. The description shall include, but is not limited to, the following:

(i) The proposed on-line life of the industrial facility and its projected operating capacity during its on-line life; and, for transmission lines exceeding one hundred fifteen thousand (115,000) volts included as part of the proposed industrial facility, a projection indicating when such lines will become insufficient to

meet the future demand and at what time a need will exist to construct additional transmission lines to meet such demands; and

(ii) Products needed by facility operations and their source.

(e) A statement that shall be a reasonable estimate of the calendar quarter in which construction of the industrial facility will commence, contingent upon the issuance of a permit by the Council.

(f) A statement that shall be a reasonable estimate of the maximum time period required for construction of the industrial facility and an estimate of when the physical components of the industrial facility will be ninety (90) percent complete, and the basis for that estimate.

(g) The applicant shall identify what it deems to be the area of site influence and recommends as the local governments primarily affected by the proposed industrial facility as defined in Sections 2(c) and (b), respectively, of these regulations. The immediately adjoining area(s) and local governments shall also be identified with a statement of the reasons for their exclusion from the list of area(s) or local governments primarily affected by the proposed industrial facility.

(h) Using tables, provide a detailed tally of the estimated work force to construct and to operate the facility showing the following information:

(i) All workers providing direct labor and direct support; (safety, supervision, inspection) at the work site;

(ii) Information by calendar quarter and year from the commencement of construction through the first year of operation;

(iii) Identify and provide totals of those which are construction and those which are permanent;

(iv) Identify and provide quarterly totals of the number, job classification and recurrence; of those which are estimated to be immigrating (from outside the study area at the time of hire for the facility) and of those pre-existing employees of the applicant engaged in construction;

(v) Provide estimates of wages; and

(vi) Provide estimates of paid benefits including per diem and paid fees.

(i) An evaluation of the social and economic conditions in the area of site influence. The social and economic conditions shall be inventoried and evaluated as they currently exist, projected as they would exist in the future without the proposed industrial facility and as they will exist with the facility. Prior to submitting its application, each applicant shall confer with the administrator to define the needed projections, the projection period and issues for socioeconomic evaluation. The evaluation may include, but is not limited to:

(i) Land use designation of the site location, including whether or not the use of the land by the industrial facility is consistent with state, intrastate, regional, county and local land use plans, if any. The analysis shall include the area of land required and ultimate use of land by the industrial facility and reclamation plans for all lands affected by the industrial facility or its dependent components;

(ii) A study of the area economy including a description of methodology used. The study may include, but is not limited to, the following factors:

(A) Employment projections by major sector;

(B) Economic bases and economic trends of the local economy;

(C) Estimates of basic versus non-basic employment;

(D) Unemployment rates;

(iii) A study of the area population including a description of methodology used. The study may include, but is not limited to, an evaluation of demographic characteristics for the current population and projections of the area population without the proposed industrial facility;

(iv) An analysis of housing facilities by type, including a quantitative evaluation of the number of units in the area and a discussion of vacancy rates, costs, and rental rates of the units. The analysis should include geographic location, including a quantitative evaluation of the number of units in the area required by the construction and operation of the proposed industrial facility and a discussion of the effects of the proposed industrial facility on vacancy rates, costs, and rental rates of the units. Specific housing programs proposed by the applicant should be described in detail;

(v) An analysis of transportation facilities containing discussion of roads (surface, type), and railroads (if applicable). An analysis of effects on transportation facilities including effects on service levels of roads, haul routes for materials and supplies, increased rail traffic at grade crossings, and intersection of new access roads with existing roads;

(vi) Public facilities and services availability and needs, which may include, but are not limited to:

(A) Facilities required for the administrative functions of government;

(B) Sewer and water distribution and treatment facilities including the capability of these facilities to meet projected service levels required due to the proposed industrial facility. Use of facilities by the proposed industrial facility should be assessed separately from population related increases in service levels;

(C) Solid waste collection and disposal services including the capability of these facilities to meet projected service levels required due to the proposed industrial facility. Use of facilities by the proposed industrial facility should be assessed separately from population related increases in service levels;

(D) Existing police and fire protection facilities including specific new demands or increases in service levels created by the proposed industrial facility;

(E) An analysis of health and hospital care facilities and services;

(F) Human service facilities, programs and personnel, including an analysis of the capacity to meet current demands and a description of problems, needs, and costs of increasing service levels;

(G) An analysis of user-oriented community recreational facilities and programs and urban outdoor recreational opportunities including descriptions of recreational resources, locations of the recreational resources, and the types of recreational resources and an analysis of outdoor,

resource-oriented recreational opportunities including locations and types of the recreational resources;

(H) Educational facilities, including an analysis based upon enrollment per grade, physical facilities and their capacities and other relevant factors with an assessment of the effect that the new population will have on programs and facilities;

(I) Problems due to the transition from temporary, construction employees to operating workforces should be addressed. Changes in levels of services required as a result of the proposed industrial facility should specifically be addressed. Cumulative impacts of the proposed industrial facility and other developments in the area of site influence should be addressed separately. This assessment should examine increased demands associated with the construction and operational phases of the proposed industrial facility, as well as effects on the level of services as the construction or operational workforces decline;

(J) A copy of any studies that may have been made of the social or economic impact of the industrial facility.

(vii) A fiscal analysis over the projection period for all local governments and special districts identified by the applicant as primarily affected by the proposed industrial facility, including revenue structure, expenditure levels, mill levies, services provided through public financing, and the problems in providing public services. The analysis may include, but is not limited to:

(A) An estimate of the cost of the facility.

(B) An estimate of the cost of the facility construction subject to sales and use taxes.

(C) An estimate of sales and use taxes by year for each county if the facility is located in more than one county.

(D) Estimates of impact assistance payments which will result from the project.

(E) An estimate of the cost of components of the industrial facility which will be included in the assessed value of the industrial facility for purposes of ad valorem taxes for both

the construction and operations periods. This estimate should include a breakdown by county if the components of the industrial facility will be located in more than one county.

(j) An evaluation of the environmental impacts. The items shall be noted and evaluated as they would exist if the proposed industrial facility were built. Each evaluation should be followed by a brief explanation of each impact and the permit issued that regulates the impact. If the impact is not regulated by a state regulatory agency or federal land management agency, the application must include plans and proposals for alleviating adverse impacts. Cumulative impacts of the proposed industrial facility and other projects in the area of site influence should be addressed separately.

(k) The applicant shall describe the procedures proposed to avoid constituting a public nuisance, endangering the public health and safety, human or animal life, property, wildlife or plant life, or recreational facilities which may be adversely affected by the proposed facility, including:

(i) Impact controls and mitigating measures proposed by the applicant to alleviate adverse environmental, social and economic impacts associated with construction and operation of the proposed industrial facility;

(ii) Monitoring programs to assess effects of the proposed industrial facility and the overall effectiveness of impact controls and mitigating actions.

B. Application of Principles of Law

57. This Council has considered all the evidence, testimony, and arguments presented at the June 4, 2014 evidentiary hearing. Through the evidence and testimony, this Council finds that Simplot has shown, by a preponderance of the evidence, that it filed a complete Application with the Division regarding the proposed Ammonia Facility Project, which included the requirements in Wyoming Statute § 35-12-109(a) and Chapter 1, Section 9 of the Industrial Development Information and Siting Rules and Regulations, and that the proposed Ammonia

Facility Project complies with all applicable law. The completeness of the Application is supported by the testimony of Prevedel, Howe, Dr. Ritter, Hammond, and Wichmann.

58. Simplot has shown, through the exhibits and testimony of all its witnesses, that the proposed Ammonia Facility Project will not pose a threat of serious injury to the environment nor to the social and economic conditions of inhabitants in the affected area, and that the project will not substantially impair the health, safety, and welfare of those inhabitants. The testimony of Prevedel, Howe, Dr. Ritter, and Hammond all indicated that to be the case.

59. Finally, with regard to the allocation of the impact assistance funds, this Council finds the Division's recommendation to allocate 100 percent of the impact funds to Sweetwater County is reasonable.

VI. DECISION

Pursuant to the authority vested in the Industrial Siting Council by Wyoming Statute § 35-12-113 (LexisNexis 2013), this Council hereby **GRANTS** the Industrial Siting Permit Application filed by Simplot Phosphates to construct and operate the Ammonia Facility Project to be located at the Simplot Phosphates Rock Springs Fertilizer Complex near Rock Springs, Wyoming.

The Council specifically finds, with the imposition of the following conditions, that:

- (1) The proposed facility complies with all applicable law;
- (2) The facility will not pose a threat of serious injury to the environment nor to the social or economic condition of inhabitants or expected inhabitants of the affected area;
- (3) The facility will not substantially impair the health, safety, or welfare of the inhabitants;

(4) The Applicant has the financial resources to decommission and reclaim the facility.

Pursuant to its authority, this Council allocates the impact assistance funds as follows:

Sweetwater County, Wyoming: 100%

Finally, pursuant to its authority, this Council places the following terms and conditions on the facility, as exactly reflected in the *Division's Exhibit 3*:

Condition #1. Simplot Phosphates, LLC (Permittee) shall obtain and maintain all required State and local permits and approvals in accordance with W. S. 35-12-109(a)(xv), 35-12-113(a)(i), and 35-12-115 during the term of this permit.

Condition #2. Permittee shall commence to construct within three years following the date of the award of this permit.

Condition #3. Before engaging in any activity over which the Industrial Siting Council (ISC) has jurisdiction, which could significantly affect the environment external to Permittee's permit area, or the social, economic, or environmental conditions of the area of site influence and which was not evaluated in the permit process, the Permittee shall prepare and file an evaluation of such activity with the Industrial Siting Division (ISD). When in the opinion of the Director of the Department of Environmental Quality (Director), the evaluation indicates that such activity may result in significant adverse impacts that were not considered in the permit, the Permittee shall file a permit amendment in accordance with W. S. 35-12-106.

Condition #4. The Permittee shall develop a written compliance plan and program to ensure compliance with voluntary commitments of this Permit, testimony, agreements with local governments, and these permit conditions. A compliance coordinator shall be designated and identified to the ISD prior to the onset of construction. This individual shall present himself/herself and meet with the ISD staff before construction commences and review the permit requirements with the ISD staff. This coordinator shall assume the responsibility for assuring that contractors and subcontractors are aware of and meet all permit requirements.

Condition #5. The ISC may review any adverse social, economic, or environmental impacts either within or outside the area primarily affected that are attributed to the Permittee:

- a. Which adversely affect the current level of facilities or services provided by the local community;
- b. Which cannot be alleviated by financing through ordinary sources of revenue, given due consideration to bonding history and capacity of the jurisdiction involved;
- c. Which were not evaluated or foreseen at the time the permit was granted and can be attributed in whole or in part to the permitted Facility; and

- d. Which are not or cannot be resolved by voluntary measures by industrial representatives in the community.

Then by order issued in accordance with the Wyoming Administrative Procedures Act, the ISC may require additional mitigation by the Permittee in cooperation with other basic industries (existing and future) provided that:

- a. A local government has requested mitigation assistance; and
- b. Such adverse impacts were determined to be a result of the activities of the Permittee.

Permittee shall be required to assist in mitigating any impacts that result from construction or operation of the Facility, including those resulting from direct and indirect employment. For purposes of determining additional mitigation measures by the Permittee, consideration shall be given to previous mitigation efforts. However, in any event, Permittee shall not be required to provide mitigation in excess of the proportion that the Permittee's activities are contributing to the total impacts within the impacted area (as defined by W. S. 35-12-102).

Condition #6. The Permittee shall give written notice to the ISD when construction commences.

Condition #7. The Permittee shall give written notice to the ISD when the physical components of the Facility are 90 percent complete.

Condition #8. As a means of adhering to W. S. 35-12-109 (a)(xviii) to provide preference for local and resident hiring, the Permittee, contractors, and subcontractors shall:

- a. Incorporate procedures to foster local hiring into the compliance plan and program of Condition #4.
- b. File all job postings with the local Workforce Center.

Condition #9. The Permittee shall submit an annual report to ISC for the years, or portion of a year, that includes construction and again for the first year of operation of the Facility for each phase. The annual report shall include:

- a. Efforts to assure compliance with voluntary commitments, mitigation agreements with local governments, and conditions contained in this permit;
- b. The extent to which construction has been completed in accordance with the approved schedule;
- c. Any revised time schedules or time tables for construction, operations, and reclamation, and a brief summary of the construction, reclamation, and other activities that will occur in the next one-year period.

Condition #10. In order that the ISD may monitor Permittee's performance, the Permittee shall institute the following monitoring program that shall be recorded on a monthly basis and reported to the ISD on a quarterly basis through the construction period and through the first year of operation. Monthly data will be in a form prescribed by ISD and shall include:

- a. The average and peak number of employees for the Permittee, contractors, and subcontractors.
- b. Employee city and state of residency at the time of hire and the employee city and state while employed and type of residence while employed.
- c. The number of new students enrolled by grade level and school district who are related to Permittee employees, identified as either local (no change of residence) and in-migrants.
- d. The mix of Wyoming resident workforce versus non-resident workforce.
- e. An updated construction schedule in the form of Figure 3-1 of the *Section 109 Permit Application: Simplot Phosphates, LLC Rock Springs Ammonia Facility* (Application) and Table 1, Table 2, and Figure 1 of the Applicant's Response Letter dated May 2, 2014, to the Division's Notice of Deficiency.

Condition #11. The Permittee shall notify the ISD in advance of proposed changes to the scope, purpose, size, or schedule of the Facility. At the request of the Director, the Permittee shall update the Application and socioeconomic analysis therein to address proposed changes. The Director may authorize such changes if he or she finds that:

- a. The change should not result in any significant adverse environmental, social, or economic impacts in the area of site influence; and
- b. No party or ISC Member has requested that the matter be heard before the ISC in accordance with the permit procedures of W. S. 35-12-106(c) and (d).

The Director will provide public notice of the proposed change and his intent to approve the request.

Condition #12. The Permittee shall notify the ISD in advance and provide updates to the On-Site Construction Workforce Schedule, Table 1, Table 2, and Figure 1 of the Applicant's Response Letter dated May 2, 2014, to the Division's Notice of Deficiency, and all other pages of the Application where changes have or are expected to occur if:

- a. Actual on-site workforce during construction is expected to exceed the peak number estimated in the Application by more than fifteen percent (15%);
- b. The Permittee wishes to make changes to the lodging plan as described in the Application.

The Director may authorize such changes or refer the matter to the ISC.

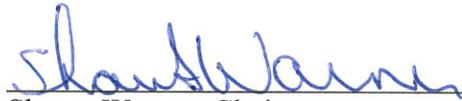
Condition #13. As may be subsequently required by the Director, the Permittee shall pay a fee based on the estimated cost to prepare, schedule, and conduct a special hearing or meeting of the ISC to remedy any action or inaction by the Permittee. Unused fees shall be refunded to the Permittee.

Condition #14. When the Project is nearing completion, Permittee shall place notice to that effect in the newspapers in the general area of the Facility.

VII. ORDER

IT IS THEREFORE ORDERED that the Industrial Siting Permit Application known as the Ammonia Facility Project, as submitted by the Applicant, as modified by this Council, and as set forth above in Permit Conditions #1 through #14, is **GRANTED**.

DONE this 14 day of July, 2014.



Shawn Warner, Chairman
Industrial Siting Council
Herschler Building, Fourth Floor West
122 West 25th Street
Cheyenne, Wyoming 82002
(307) 777-7170

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served by mailing a true and correct copy, postage prepaid, on the 15 day of July, 2014, addressed to the following:

Wyoming Department of Environmental Quality – (ORIGINAL)
Industrial Siting Division
Attn: Kimber Wichmann, Principal Economist
Herschler Building, Fourth Floor West
122 West 25th Street
Cheyenne, Wyoming 82002

Andrew J. Kuhlmann – Attorney for Industrial Siting Division
Assistant Attorney General
2424 Pioneer Avenue, 2nd Floor
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Mayor Hank Castillon – City of Green River
50 East Second North Street
Green River, Wyoming 82935

Douglas C. Thomas – Wyoming Building and Construction Trades Council
P.O. Box 1807
Rock Springs, Wyoming 82902

Chairman Wally J. Johnson – Sweetwater County Board of County Commissioners
80 West Flaming Gorge Way, Suite 109
Green River, Wyoming 82935

Mayor Carl R. Demshar, Jr. – City of Rock Springs
212 D Street
Rock Springs, Wyoming 82901



Industrial Siting Division