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west virginia department of environmental protection

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**RESPONSIVENESS SUMMARY  
WEST VIRGINIA/NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
(WV/NPDES) PERMIT NO. WV0022349 – MODIFICATION NO. 8**

**March 1, 2019**

The Department of Environmental Protection's (DEP) Division of Water and Waste Management (DWWM) would like to take this opportunity to thank those who attended the public hearing as well as those individuals who submitted written comments on proposed Modification No. 8 of West Virginia/National Pollutant Discharge Elimination System (WV/NPDES) Permit WV0022349 for the City of Charles Town (herein after "permittee").

This is a minor permit modification to add a non-significant industrial user and the agency was not required to develop a draft permit or send it to public notice. However, due to significant public interest in the permit modification request, the agency exercised its discretion authority to send this minor permit modification to public notice and to also hold a public hearing. DWWM published a Class I Legal advertisement in the "Spirit of Jefferson" newspaper on November 7, 2018 announcing the agency's intent to issue the permit modification as well as providing notification of the public hearing. A public hearing was held at the Ranson Civic Center on December 10, 2018 in an additional effort to gain public input on the modification. After the public hearing, the written comment period expired on December 20, 2018.

During the public hearing, oral comments were heard, and a court reporter was used to produce a transcript of the public hearing. Additionally, the DWWM Permitting Section received written comments as well. A Responsiveness Summary has been prepared in lieu of a response letter to each commenter. The Responsiveness Summary highlights the issues and concerns that were identified during the public hearing and/or contained in the written comments received during the comment period. In many cases, multiple comments were provided on specific subjects or issues, and both the comments and the responses have been summarized to the extent possible. Please note that some comments provided may not have been pertinent to the specific permit modification application being considered and responses may not have been provided since those comments were not germane to this permit modification. Comments provided after December 20, 2018 were not considered in this responsiveness summary.

Summarized comments will appear first, followed by the agency's response appearing in bold type.

1. Several commenters expressed concerns with potential impacts to the Chesapeake Bay Watershed.

**The permit already contains specific requirements consistent with the Chesapeake Bay TMDL in order to be protective of the Chesapeake Bay Watershed. Specifically, the permit contains limitations for total nitrogen and total phosphorus which afford the necessary protection. The proposed modification did not change these requirements and the necessary protections remain imposed. Additionally, the agency's review of the proposed modification concluded that the addition of the non-domestic wastewater would not impact the permittee's ability to continue to achieve its existing total nitrogen and total phosphorus limitations.**

2. Several commenters expressed concerns with the potential impacts on localized water quality.

**The agency evaluated the potential impacts on localized water quality and the permit modification contains the necessary terms and conditions to ensure that the acceptance of the non-domestic wastewater will not: cause interference with the Publicly Owned Treatment Works (POTW) operations, pass-through the POTW and result in effluent limitation violations or receiving stream degradation, or adversely impact POTW sludge disposal.**

3. Several commenters were concerned with the POTW's ability to accommodate the additional non-domestic wastewater within its current infrastructure.

**The agency determined that there was sufficient capacity at the wastewater treatment plant (WWTP) to accommodate the non-domestic wastewater. Where necessary, the agency imposed certain terms and conditions to ensure WWTP operations are maintained. This modification did not address any sewer line extensions. Pursuant to Section C.14 of the permittee's existing permit, the permittee may make additional sewer connections up to 87,500 gallons per day without seeking approval from the agency. The City of Charles Town is a separate sewer system and storm water is not permissible within the sanitary sewer system and should not have impacts upon the sanitary collection system or wastewater treatment plant. However, all sewer systems have some degree of inflow and infiltration and are generally required to properly operate and maintain their sewer systems and identify and eliminate inflow and infiltration. Any overflows of raw sewage are explicitly prohibited and a violation of the permit. If the public becomes aware of any overflows, the agency strongly encourages the public to contact Environmental Enforcement at 304-822-7266.**

4. Several commenters expressed concerns with how ROCKWOOL will address its stormwater. Additionally, concerns with potential compliance issues were raised.

**Please note that this permit is issued to the City of Charles Town. The permittee did not request to accept any stormwater from ROCKWOOL. As such, the modification does not authorize the acceptance of stormwater from ROCKWOOL. Any potential stormwater discharge associated with industrial activity at the ROCKWOOL facility would be addressed through a separate permit. Any potential future non-compliance with the permit or permit modification would be addressed by the agency if it occurs through an enforcement action.**

5. Several commenters expressed concerns with potential air pollution generated by ROCKWOOL as well as concerns with onsite operations at ROCKWOOL.

**As noted before, this permit is issued to the City of Charles Town and the modification allows Charles Town to accept non-domestic wastewater from ROCKWOOL. Any air related concerns should be directed to the Division of Air Quality at 304-926-0475. The purview of this permit modification is limited to the terms and conditions related to ROCKWOOL's non-domestic wastewater being accepted by the City of Charles Town and does not cover any other operations at the ROCKWOOL facility.**

6. Concerns were raised about the permittee's ability to accurately monitor the wastewater from ROCKWOOL and the permittee's ability to cease ROCKWOOL's discharge when in violation.

**As the permit is issued to the City of Charles Town, it is the City's responsibility to ensure compliance with the terms and conditions of its permit which includes the terms and conditions of acceptance of any non-domestic wastewater. Requirements contained in Sections F.4 – F.6 of the permit modification provide the necessary assurances that the permittee takes appropriate measures where necessary. The sampling required in Section A.IU02 may be conducted by any entity; however, the permittee is ultimately responsible for achieving the terms and conditions of its permit and must ensure that sampling is conducted and reported in accordance with its permit. All sampling and analysis required by a WV/NPDES Permit must be in accordance with EPA approved test methods found in 40 CFR 136 as well as be analyzed by a WV certified laboratory. Discharge Monitoring Reports (DMRs) submitted by permittees are available to the public on DEP's website or through a Freedom of Information Act (FOIA) request.**

7. Some commenters expressed concerns with chlorides and its impacts upon the receiving stream and that the permit was deficient of calculations that represent that the chloride limit imposed in Section A.IU02 is protective of water quality criteria.

**Please see the agency's response to Comment No. 2. Additionally, please note that the explanations or rationale of permit conditions are not included in permits. This type of rationale would usually be included in a fact sheet. However, this permit modification is a minor modification and no fact sheet was required or prepared. Additionally, as noted above, this does not mean that the agency did not conduct the assessment.**

8. Concerns were raised with the public notice procedures and the availability to review information during the comment period.

**The agency followed the procedures in the code of state regulations regarding the public notice and public hearing. Please note that information was available by request as noted in the public notice ad. Additionally, the agency had a link on its main web page specifically dedicated to information relevant to ROCKWOOL. As of the date of this correspondence, this web page included the permit application, permit, public notice, and transcript of the public hearing.**

9. One commenter indicated that “CIU” was selected in the application and also questioned what a “SIC” code of 3296 means and whether this was required to be in the public notice.

**CIU is an agency acronym used for a categorical industrial user. A categorical industrial user is subject to specific technology-based requirements in federal effluent guidelines. The Standard Industrial Classification (SIC) is a system for classifying industries by a four-digit code. The SIC system is used by government agencies to classify industry areas. SIC codes are one mechanism used by the agency in determining if a facility is subject to any specific technology-based requirements in federal effluent guidelines and would therefore result in the facility being categorized as a CIU. The CIU designation (or non-designation) as well as the SIC code are not a part of the public notice procedures. SIC Code 3296 is classified as “Mineral Wool”.**

10. Concerns were raised about who would be responsible if something goes wrong.

**WV/NPDES Permit No. WV0022349 is issued to the City of Charles Town and they are responsible for compliance with the terms and conditions of the permit. Please note that this does not preclude the permittee from having separate contractual agreements with ROCKWOOL.**

11. Several commenters expressed concerns about the accuracy of the quantity of water usage by ROCKWOOL as well as the type of wastewater and quantity to be discharged from it. Additionally, many commenters questioned the discrepancy between the flow value in the permit application and the flow value in the permit modification.

**Several commenters brought up information or documents involving other entities besides the WV DEP. Please note that the only information pertinent to this modification is what was included in the permit application that was submitted to the WV DEP. The permit contains a maximum daily effluent limit of 17,000 gallons per day which applies to the specific types of non-domestic wastewaters noted in Section F.2.a.2 of the permit which includes reverse osmosis reject wastewater and water softener wastewater. No other type of non-domestic is authorized to be accepted. The permit also requires the non-domestic discharge flow from ROCKWOOL to be measured daily which will ensure that this flow limit is achieved. Additionally, if ROCKWOOL intends to send additional non-domestic wastewater in the future or different types of non-domestic wastewater than authorized by the permit, then the**

**permittee must first submit a permit modification request and obtain permit approval prior to accepting any new or expanded non-domestic wastewaters. Once a permittee requests a permit to cumulatively accept non-domestic flow (including previously permitted non-domestic wastewater) at or above 25,000 gallons per day or the permittee requests to accept non-domestic wastewater that designates the industrial user as a CIU, the industrial user is designated as a significant industrial user. Any request that results in an industrial user being designated as a significant industrial user will be a major modification to the permit and will also require a Tier 2 antidegradation review.**

**The permit application proposed a maximum discharge flow of 14,900 gallons per day of non-domestic wastewater. The agency provided a small buffer above the requested discharge flow in case discharge projections are slightly higher than prescribed in the permit application. The agency routinely does this in order to avoid another modification request to slightly increase flow limits if actual flows are slightly higher than requested projections. In all circumstances, agency evaluations and the terms and conditions included in a permit are developed based upon the permitted maximum flow rate.**

12. Some commenters inquired about an antidegradation review.

**The terms and conditions contained in the permit modification ensure that Tier 1 protection is afforded from the ultimate discharge from the permittee.**

13. Some commenters indicated that this permit modification was for a proposed discharge of storm water through Outlet 004 into Evitt's Run.

**Permit Modification No. 7 issued November 16, 2018 addressed a storm water discharge from the City of Charles Town through Outlet 004 and was completely unrelated to ROCKWOOL. Permit Modification No. 8 is what is currently under consideration. This modification is for a request by the permittee to accept non-domestic wastewater from ROCKWOOL and does not authorize the acceptance of any storm water.**

14. Some commenters inquired if the City of Charles Town was required to provide sewer service to ROCKWOOL.

**Where feasible, the City of Charles Town may be required to provide sewer service by the Public Service Commission (PSC); however, this is limited to sanitary (domestic wastewater) sewer service. It is the understanding of the WV DEP that the City of Charles Town has not been mandated by the PSC to accept the non-domestic wastewater from ROCKWOOL. Additionally, the WV DEP's issuance of this permit modification is not to be construed as a mandate by the WV DEP that the City of Charles Town must accept the non-domestic wastewater. The WV DEP is only processing this modification because the permittee requested to accept the non-domestic wastewater. Any sewage treatment facility may request removal of an industrial user**

**from its permit through a minor permit modification request at any time.**

15. One commenter asked if the WV DEP had ever denied a permit.

**The WV DEP has multiple divisions with multiple permitting sections under those divisions. The Division of Water and Waste Management's Permitting Section has denied an individual WV/NPDES Permit or Permit Modification in the past.**

16. One commenter inquired if there are protocols for testing drinking water or rivers after a Notice of Violation (NOV) has been issued.

**Violations are assessed on a case-by-case basis which may, or may not, result in certain testing being conducted.**

17. One commenter asked if the U.S Fish and Wildlife Service was contacted so it could conduct its own assessment of federally listed endangered species around the site.

**The U.S. Fish and Wildlife Service was provided notification of the permit modification. No comments were provided from the U.S. Fish and Wildlife Service.**

18. One commenter asked if notification was provided to the Appalachian Region and that the WV DEP was required to do so under WV Code 7-12-7.

**Chapter 7, Article 12, Section 7 of the WV Code provides for the general powers of county and municipal development authorities. Chapter 22 of the WV Code is applicable to the WV DEP.**

19. Some commenters expressed confusion with the source water being provided to ROCKWOOL and the sampling analysis provided in the permit application.

**The source water that ROCKWOOL will be treating is potable drinking water from Jefferson Utilities, Inc (JUI). The analysis provided in the permit application included results of potable water from JUI and ROCKWOOL's projected discharge concentrations.**

20. Some commenters asked if the WV Department of Natural Resources (WV DNR) was aware of the permit modification request.

**The WV DNR was provided notification of the permit modification. No comments were provided from the WV DNR.**

21. One commenter asked if the WV DEP had considered enacting standards for chloride in surface water.

**The WV DEP has water quality criteria for chloride which can be found in Title 47, Series 2, Section 8 of the WV Legislative Rules.**

22. One commenter expressed concerns with radium levels in the source water and wastewater from ROCKWOOL.

**As noted earlier, the source water is potable water from the JUI. As such, radium was not considered to be a pollutant of concern in the wastewater.**

The Division of Water and Waste Management issued WV/NPDES Permit No. WV0022349, Modification No. 8 on March 1, 2019. Within 30 days of the issuance date of this permit, anyone who may be adversely affected or aggrieved by the permit terms and conditions may file a Notice of Appeal with the Environmental Quality Board (EQB), 601 57<sup>th</sup> Street SE, Charleston, West Virginia 25304. Telephone (304) 926-0445. Please note that permit appeals are not handled by the DWWM and must be filed with the EQB for consideration. Thank you for your interest in this application.

Sincerely,



Harold D. Ward  
Acting Director

HDW/mls

cc: Environmental Enforcement Supervisor  
US EPA Region 3  
Attached Address List