



LAND USE PERMIT

CASE NO: #1R0271-21
APPLICANT OMYA, Inc.
ADDRESS P.O. Box 10
Florence, VT 05744

LAWS/REGULATIONS INVOLVED
10 V.S.A., §§ 6001 - 6092
(ACT 250)

District Environmental Commission #1 hereby issues Land Use Permit Amendment # 1R0271-21, pursuant to the authority vested in it by 10 V.S.A., §§ 6001-6092. This permit amendment applies to the lands identified in Book 68, Pages 534, of the land records of the Town of Florence, Vermont, as the subject of a deed to OMYA, Inc., the Permittee as Grantee.

This permit specifically authorizes the Permittee to construct Phase I, Cells 1 and 2 of a new lined tailings management facility ("TMF"). The project is located on OMYA, Inc., Verpol facility in Florence, VT. The permit decision also contains certain final affirmative findings with respect to subsequent phases.

The project is subject to Act 250 jurisdiction because it is a material change to the existing permit. 10 V.S.A. §6001

The Permittee, and its assigns and successors in interest, are obligated by this permit to complete, operate and maintain the project as approved by the District Commission in accordance with the following conditions:

1. All conditions of Land Use Permit # 1R0271, as amended, are in full force and effect except as further amended herein.
2. The project shall be completed, operated and maintained in accordance with: (a) Findings of Fact and Conclusions of Law #1R0271-21, (b) the plans and exhibits on file with the District Environmental Commission, and (c) the conditions of this permit. No changes shall be made in the design or use of this project without the written approval of the District Coordinator or the Commission, whichever is appropriate under the Act 250 Rules.
3. Prior to commencement of construction of Phase I, Cell 2, the permittee shall file the application fee required under 10 V.S.A. § 6083a. In the event that there are any non-material design changes to Cell 2, those changes shall be described with specificity in the application fee submittal. Proposed material changes, if any, shall be accompanied by an application to amend this permit.

4. In the event that any of the monitoring results described in Findings of Fact 20 and 21 exceed the thresholds allowed under the Solid Waste Certification, required notification of the results to ANR and other recipients shall be filed contemporaneously with the District Commission. The Commission will retain jurisdiction under criterion 1B and will reserve the right to convene a hearing and to impose additional conditions in the event that the project is shown to pose an unreasonable risk of undue water pollution.
5. The affirmative and partial findings of fact issued herein are valid for a period of five years from the calendar date of issuance of this permit. Requests for extension of the findings may be made in the form of an application to amend this permit. Applications to renew these findings must describe any changes to the project or changes in circumstances that may alter the findings of fact and conclusions made herein.
6. Applications for construction approval of either Phase II or Phase III of the Tailings Management Area (“TMA”) shall contain evidence of conformance with all then-relevant Act 250 criteria for which affirmative findings are not then in effect, including but not necessarily limited to:
 - a. Criterion 1B (water pollution) – The applicant must file the new Solid Waste Certification applicable to the Phase applied-for as well as a summary of historical monitoring results and such other evidence as is relevant in the Schedule B to establish conformance with Criterion 1B including, but not necessarily limited to stormwater construction permit, stormwater discharge permit, multi-sector general permit.
 - b. Criterion 4 (erosion) – To the extent applicable (e.g. if not covered by an existing plan), OMYA must submit modified erosion control plans or Stormwater Pollution Prevention Plans as necessary to accommodate the subsequent phase of development then proposed.
 - c. Criterion 9(J) (public utility services) – To the extent applicable (e.g. an increase in demand for electricity in connection with the operation of a subsequent phase), OMYA must submit evidence that necessary supportive governmental and public utility facilities and services are available and that an excessive or uneconomic demand will not be placed on such facilities and services.
 - d. Criterion 10 (Town and Regional Plan) – In the event an applicable Town or Regional Plan has been modified by the time a subsequent phase of development is proposed for final review, OMYA must submit information

demonstrating that the proposed development is in conformance with any duly adopted local or regional plan.

7. This permit hereby incorporates by reference all conditions of Solid Waste Disposal Facility Certification RU995, issued on May 6, 2010 by the Waste Management Division, Department of Environmental Conservation, Agency of Natural Resources.
8. Representatives of the State of Vermont shall have access to the property covered by this permit, at reasonable times, for the purpose of ascertaining compliance with Vermont environmental and health statutes and regulations and with this permit.
9. The District Environmental Commission maintains continuing jurisdiction during the lifetime of the permit and may periodically require that the permit holder file an affidavit certifying that the project is being completed, operated and maintained in accordance with the terms of the permit, as provided by 10 V.S.A., Chapter 151 and the rules of the Natural Resources Board.
10. The conditions of this permit and the land uses permitted herein shall run with the land and are binding upon and enforceable against the Permittee and their successors and assigns.
11. The permittee shall not cause, permit or allow the discharge of waste material into any surface waters. Compliance with the requirements of this condition does not absolve the permittee/s from compliance with 10 V.S.A., Chapter 47, Vermont's Water Pollution Control Law.
12. The Permittees shall reference the requirements and conditions imposed by Land Use Permit #1R0271-21 in all deeds of conveyance.
13. Pursuant to 10 V.S.A. § 6090(c), this permit is hereby issued for an indefinite term, as long as there is compliance with the conditions herein.
14. All site work and construction of Phase 1, Cell 1 sufficient to begin receiving waste shall be completed in accordance with the approved plans by November 15, 2013, unless an extension of that date is approved in writing by the Commission. Requests to extend the construction completion date must be filed prior to the deadline for completion and approval may be granted without public hearing.
15. Notwithstanding any other provision herein, this permit shall expire three years from the date of issuance if the permittee has not commenced construction and

made substantial progress toward completion within the three year period in accordance with 10 V.S.A. § 6091(b).

16. The Permittees shall file a Certificate of Actual Construction Costs, on forms available from the Natural Resources Board, pursuant to 10 V.S.A. § 6083a(g) within one month after construction of Phase I, Cell 1 has been substantially completed. In the event that Phase I, Cell 2 is also completed within the five year period contemplated herein, this condition shall also apply to completion of Cell 2. Application for extension of time for good cause shown may be made to the District Commission. If actual construction costs exceed the original estimate, a supplemental fee based on actual construction costs must be paid at the time of certification in accordance with the fee schedule in effect at the time of application. Upon request, the Permittee shall provide all documents or other information necessary to substantiate the certification. Pursuant to existing law, failure to file the certification or pay any supplemental fee due constitutes grounds for permit revocation. The certificate of actual construction costs and any supplemental fee (by check payable to the "State of Vermont") shall be mailed to: Natural Resources Board, National Life Records Center Building, National Life Drive, Montpelier, VT 05620-3201; Attention: Certification.
17. Failure to comply with all of the above conditions may be grounds for permit revocation pursuant to 10 V.S.A., § 6027(g).

Dated at Rutland, Vermont, this 2nd day of June, 2010.

By /s/ Phillip J. Nexon
Phillip J. Nexon, Chair
District #1 Commission

Members participating in
this decision: Michael J. Henry, Amanda Beraldi

Any party may file a motion to alter with the District Commission within 15 days from the date of this decision, pursuant to Act 250 Rule 31(A). Decisions on minor applications may be appealed only if a hearing was held by the district commission. Please note that there are certain limitations on the right to appeal. See 10 V.S.A. § 8504(k). Any appeal of this decision must be filed with the clerk of the Environmental Court within 30 days of the date of issuance, pursuant to 10 V.S.A. Chapter 220.

The Notice of Appeal must include all information required by Rule 5(b)(3) of the Vermont Rules for Environmental Court Proceedings (VRECP). The appellant must also serve a copy of the Notice of Appeal on the Natural Resources Board, National Life Records Ctr. Bldg., Drawer 20, Montpelier, VT, 05620-3201, and on other parties in accordance with Rule 5(b)(4)(B) of the VRECP. For further information, see the Vermont Rules for Environmental Court Proceedings, available on line at www.vermontjudiciary.org. The address for the Environmental Court is: Environmental Court, 2418 Airport Rd., Suite 1, Barre, VT 05641-8701. (Tel. # 802-828-1660).