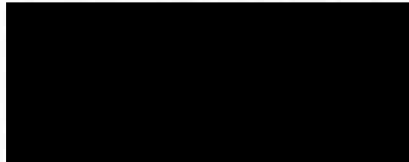


DOC/2017/03615-02

September 8, 2017



s.40(1)

Dear  s.40(1)

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act, 2015* [Our File #: MAE/67/2017]

On August 25, 2017, the Department of Municipal Affairs and Environment received your request for access to the following records/information:

"Current Certificate of Approval, Compliance Agreement or any agreements between Newsul Enterprises Inc. and the Government of Newfoundland and Labrador related to their Sulphur Prilling Plant located in Come By Chance, NL"

I am pleased to inform you that a decision has been made by the Deputy Minister to provide access to the requested information.

In accordance with your request for a copy of the records, the appropriate copies have been enclosed.

The *Access to Information and Protection of Privacy Act* requires us to provide an advisory response within 10 days of receiving the request. As this request has been completed prior to day 10, this letter also serves as our Advisory Response.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the *Access to Information and Protection of Privacy Act* (the *Act*). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8

Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the Act.

Please be advised that responsive records will be published following a 72 hour period after the response is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the responsive records posted to the Completed Access to Information Requests website within one business day following the applicable period of time. Please note that requests for personal information will not be posted online.

If you have any further questions, please feel free to contact me by telephone at 709-729-3514 or by e-mail at LisaS@gov.nl.ca.

Sincerely,



LISA SULLIVAN
ATIPP Coordinator
Policy and Strategic Planning

Enclosures

Access or correction complaint

42. (1) A person who makes a request under this Act for access to a record or for correction of personal information may file a complaint with the commissioner respecting a decision, act or failure to act of the head of the public body that relates to the request.
- (2) A complaint under subsection (1) shall be filed in writing not later than 15 business days
- (a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or
 - (b) after the date the head of the public body is considered to have refused the request under subsection 16(2).
- (3) A third party informed under section 19 of a decision of the head of a public body to grant access to a record or part of a record in response to a request may file a complaint with the commissioner respecting that decision.
- (4) A complaint under subsection (3) shall be filed in writing not later than 15 business days after the third party is informed of the decision of the head of the public body.
- (5) The commissioner may allow a longer time period for the filing of a complaint under this section.
- (6) A person or third party who has appealed directly to the Trial Division under subsection 52(1) or 53(1) shall not file a complaint with the commissioner.
- (7) The commissioner shall refuse to investigate a complaint where an appeal has been commenced in the Trial Division.
- (8) A complaint shall not be filed under this section with respect to
- (a) a request that is disregarded under section 21;
 - (b) a decision respecting an extension of time under section 23;
 - (c) a variation of a procedure under section 24; or
 - (d) an estimate of costs or a decision not to waive a cost under section 26.
- (9) The commissioner shall provide a copy of the complaint to the head of the public body concerned.

Direct appeal to Trial Division by an applicant

52. (1) Where an applicant has made a request to a public body for access to a record or correction of personal information and has not filed a complaint with the commissioner under section 42, the applicant may appeal the decision, act or failure to act of the head of the public body that relates to the request directly to the Trial Division.
- (2) An appeal shall be commenced under subsection (1) not later than 15 business days
- (a) after the applicant is notified of the decision of the head of the public body, or the date of the act or failure to act; or
- (b) after the date the head of the public body is considered to have refused the request under subsection 16(2).
- (3) Where an applicant has filed a complaint with the commissioner under section 42 and the commissioner has refused to investigate the complaint, the applicant may commence an appeal in the Trial Division of the decision, act or failure to act of the head of the public body that relates to the request for access to a record or for correction of personal information.
- (4) An appeal shall be commenced under subsection (3) not later than 15 business days after the applicant is notified of the commissioner's refusal under subsection 45(2).



GOVERNMENT OF
NEWFOUNDLAND AND LABRADOR
Department of Environment and Conservation

CERTIFICATE OF APPROVAL

Pursuant to the Environmental Protection Act, SNL 2002 c E-14.2 Section 83

Issue Date: **March 31, 2015**

Approval No. AA15-035605

Expiration: **December 1, 2018**

File No. 712.118

Proponent: **Newsul Enterprises Inc.**
2 Clift's-Baird's Cove
St. John's, NL
A1C 6M9

Attention: Mr. Monty Dyke, President

Re: **Sulphur Prilling Plant**

Approval is hereby given for: the operation of a sulphur prilling plant and associated material handling equipment at Come By Chance, NL.

This Certificate of Approval does not release the proponent from the obligation to obtain appropriate approvals from other concerned provincial, federal and municipal agencies. Nothing in this Certificate of Approval negates any regulatory requirement placed on the proponent. Where there is a conflict between conditions in this Certificate of Approval and a regulation, the condition in the regulation shall take precedence. Approval from the Department of Environment and Conservation shall be obtained prior to any significant change in the design, construction, installation, or operation of the sulphur prilling plant, including any future expansion of the sulphur prilling plant. This Certificate of Approval shall not be sold, assigned, transferred, leased, mortgaged, sublet or otherwise alienated by the proponent without obtaining prior approval from the Minister.

This Certificate of Approval is subject to the terms and conditions as contained therein, as may be revised from time to time by the Department. Failure to comply with any of the terms and conditions may render this Certificate of Approval null and void, may require the proponent to cease all activities associated with this Certificate of Approval, may place the proponent and its agent(s) in violation of the *Environmental Protection Act*, and will make the proponent responsible for taking such remedial measures as may be prescribed by the Department. The Department reserves the right to add, delete or modify conditions to correct errors in the Certificate of Approval or to address significant environmental or health concerns.




For **MINISTER**

TERMS AND CONDITIONS FOR APPROVAL No. AA15-035605

March 31, 2015

General

1. This Certificate of Approval is for the operation sulphur prilling plant and associated material handling equipment at Come By Chance, NL, as per plans and specifications supplied by Newsul Enterprises Inc. for this Certificate of Approval. Extensive future expansion or change of activities will require a separate Certificate of Approval.
2. Any inquiries concerning this approval shall be directed to the St. John's office of the Pollution Prevention Division (telephone: (709) 729-2556; or facsimile: (709) 729-6969).
3. In this Certificate of Approval:
 - **Department** means the Department of Environment and Conservation and its successors;
 - **Director** means the Director of the Pollution Prevention Division of the Department;
 - **licensed** means has a Certificate of Approval issued by the Minister to conduct an activity;
 - **liquid waste** is defined by the *Slump Test* (Canadian Standards Association test method A23.2-5C for determining the slump of concrete). The liquid waste slump test involves placing the waste in a 30 cm open inverted cone. The cone is removed and the immediate decrease (slump) in height of the waste material is measured. If the material slumps such that the original height is reduced by 15 cm or more, the waste is considered liquid;
 - **malfunction** means any sudden, infrequent and not reasonably preventable failure of air pollution control equipment, wastewater treatment equipment, process equipment, or a process to operate in a normal or usual manner. Failures caused in part by poor maintenance or careless operation are not malfunctions;
 - **Minister** means the Minister of the Department;
 - **Newsul** means Newsul Enterprises Inc.;
 - **spill or spillage** means a loss of gasoline or associated product in excess of 70 litres from a storage tank system, pipeline, tank vessel or vehicle, or an uncontrolled release of any volume of a regulated substance onto or into soil or a body of water;
 - **used lubricating oil** means lubricating oil that as a result of its use, storage or handling, is altered so that it is no longer suitable for its intended purpose but is suitable for refining or other permitted uses;

- **used oil** means a used lubricating oil or waste oil; and
 - **waste oil** means an oil that as a result of contamination by any means or by its use, is altered so that it is no longer suitable for its intended purpose.
4. All necessary measures shall be taken to ensure compliance with all applicable acts, regulations, policies and guidelines, including the following, or their successors:
- *Environmental Protection Act;*
 - *Water Resources Act;*
 - *Air Pollution Control Regulations, 2004;*
 - *Environmental Control Water and Sewage Regulations, 2003;*
 - *Halocarbon Regulations;*
 - *Storage and Handling of Gasoline and Associated Products Regulations, 2003; and*
 - *Used Oil Control Regulations.*

This Approval provides terms and conditions to satisfy various requirements of the above listed acts, regulations, Departmental policies and guidelines. If it appears that all of the pertinent requirements of these acts, regulations, policies and guidelines are not being met, then a further review of the works shall be conducted, and suitable pollution control measures may be required by the Minister.

5. All reasonable efforts shall be taken to minimize the impact of the operation on the environment. Such efforts include minimizing the area disturbed by the operation, minimizing air or water pollution, finding alternative uses, acceptable to the Director, for waste or rejected materials, removing equipment or structures when they no longer have further use, and considering the requirement for the eventual rehabilitation of disturbed areas when planning the development of any area on the facility property.
6. Newsul shall provide to the Department, within a reasonable time, any information, records, reports or access to data requested or specified by the Department.
7. Newsul shall keep all records or other documents required by this Approval at the sulphur prilling plant at Come By Chance for a period of not less than three (3) years, beginning the day they were made. These records shall be made available for review by officials of the Department or Service NL when requested.
8. Should Newsul wish to deviate in any way from the terms and conditions of this Certificate of Approval, a written request detailing the proposed deviation shall be made to the Minister. Newsul shall comply with the most current terms and conditions until the Minister has authorized otherwise. In the case of meeting a deadline requirement, the request shall be made at least 60 days ahead of the applicable date as specified in this Approval or elsewhere by the Department.

Waste Management

9. All waste generated at the facility is subject to compliance with the *Environmental Protection Act*. All non-industrial waste shall be placed in closed containers and, on at least a weekly basis, removed from the site. If required, industrial waste shall be disposed of by a licensed operator. These wastes shall be disposed of at an authorized waste disposal site with the permission of the owner/operator of the site.

10. Newsul shall ensure that all volatile chemical and solvent wastes, if they cannot be reused, are placed in suitable covered containers for disposal in a manner acceptable to the Department. Disposal of liquid wastes at waste disposal sites in the province is not permitted.
11. Disposal of hazardous waste in a municipal or regional waste disposal site in this Province is prohibited. Transporters of hazardous waste shall have an approval issued by the Minister. Those generating hazardous waste shall have a waste generators number issued by the Director and shall also complete the required information outlined in the Waste Manifest Form.

Waste Sulphur

12. Any waste sulphur generated from the operation of sulphur prilling activities shall be removed from the site in a manner acceptable to the Department.

Open Burning

13. Materials listed in Table 1 shall not be burnt in open fires.

Table 1 - Material Not Approved for Open Burning	
tires	manure
plastics	rubber
treated lumber	tar paper
asphalt and asphalt products	railway ties
drywall	paint and paint products
demolition waste	fuel and lubricant containers
hazardous waste	used oil
biomedical waste	animal cadavers
domestic waste	hazardous substances
trash, garbage, or other waste from commercial, industrial or municipal operations	materials disposed of as part of the removal or decontamination of equipment, buildings or other structures

14. Materials not listed in Table 1 may be burned on site only with the approval of the Department.

Spill Prevention and Containment

15. Areas in which chemicals are used or stored shall have impermeable floors and dykes or curbs and shall not have a floor drain system, nor shall it discharge to the

environment. Areas inside the dykes or curbs shall have an effective secondary containment capacity of at least **110%** of the chemical storage tank capacity, in the case of a single storage container. If there is more than one storage container, the dyked area shall be able to retain no less than **110% of the capacity of the largest container or 100 % of the capacity of the largest container plus 10% of the aggregate capacity of all additional containers, whichever is greater.** These dyked areas shall be kept clear of material that may compromise the capacity of the dyke system. Once a year, the dykes shall be visually inspected for their liquid containing integrity, and repairs shall be made when required. Once every ten years, the dykes shall be inspected, by a means other than visual inspection, for their liquid containing integrity, and repairs shall be made when required.

16. All on site storage of petroleum shall comply with the ***Storage and Handling of Gasoline and Associated Products Regulations, 2003***, or its successor. Storage tank systems shall be registered with Service NL. All aboveground storage tanks shall be clearly and visibly labelled with their GAP registration numbers.
17. An inventory of all petroleum and chemical storage tanks shall be submitted to the Director for review by ***September 30, 2015***. This inventory shall include a plan showing location, registration number (where applicable), identification number, material stored, capacity, annual throughput, tank material, tank type, tank diameter, tank height, tank colour, roof type, year of manufacture, date of installation, date of last inspection, failure history, maintenance history, dyke capacity and date of next planned inspection. Every two (2) years, an update of any significant changes to the inventory shall be submitted to the Director.

Contingency Plan

18. A Contingency Plan for the operation of Newsul shall be submitted to the Director for review by ***September 30, 2015***. The Plan shall clearly describe the actions to be taken in the event of a spill of a toxic or hazardous material. It shall include, as a minimum: notification and alerting procedures; duties and responsibilities of the “on-scene commander” and other involved staff; spill control and clean-up procedures; restoration of the spill site; information on disposal of contaminants; and resource inventory. Copies of the Plan shall be placed in convenient areas throughout the facility so that employees can easily refer to it when needed. Newsul shall ensure that all employees are aware of the Plan and understand the procedures and the reporting protocol to be followed in the event of an emergency. An annual response exercise is recommended for response personnel. Every year, as a minimum, the Plan shall be reviewed and revised as necessary. Any proposed significant revisions shall be submitted to the Director for review. Changes which are not considered significant include minor variations in equipment or personnel characteristics which do not effect implementation of the Plan.
19. Every time Newsul implements the Contingency Plan, information shall be recorded for future reference. This will assist in reviewing and updating the Plan. The record is to consist of all incidents with environmental implications, and include such details as: date; time of day; type of incident (i.e. liquid spill, gas leak, granular chemical spill, equipment malfunction, etc.); actions taken; problems encountered; and other relevant information that would aid in later review of the Plan performance. Each incident report shall be submitted to the Director as per the ***Reporting*** section.

Site Decommissioning and Restoration Plan

20. In the event of facility closure, Newsul shall prepare a plan for complete site rehabilitation. The plan shall be submitted to the Director for review and approval prior to cessation of operation. The document shall include updated site plans as well as an engineering proposal for the site rehabilitation and closure.

Ambient Air

21. All necessary measures shall be taken so that any air pollution from the screening stations, sulphur / prill storage areas, prilling tower, crushing activities, ship loading station and associated conveyors shall meet the requirements of the *Air Pollution Control Regulations, 2004*.
22. All areas travelled by pay-loaders or other mechanical equipment used to transfer sulphur shall be periodically wetted with an effective wetting agent to minimize sulphur particulate emissions. Alternate methods or control technologies for sulphur particulate emissions may be approved upon written request to the Director.
23. Dust suppressants require prior approval from this Department for their use, except for calcium chloride or water. All dust suppressant equipment shall be maintained and in good working order. Water from dust suppressant activities shall be collected and recycled as process water.
24. In the event that any dusting or other air contaminant problems are not addressed to the satisfaction of the Department, the Department reserves the right to require additional air emission control measures. Such measures may include: additional dust suppressant provisions, the usage of enclosures and/or wind walls during loading and transfer operations, limitations on wind speeds under which operations may proceed, limitations on vertical drop heights and/or vehicle speeds during sulphur / prill transfer, and the usage of floating containment booms during loading operations.

Effluent

25. Newsul shall recycle all the process water used in the generation of sulphur prills at the plant. All the drain water from the prill storage piles and from the pads shall be reclaimed and used as process water.

Used Oil

26. Used oil shall be retained in an approved tank or closed container, and disposed of by a company licensed for handling and disposal of used oil products.

Underground Sulphur Storage Tanks

27. The underground sulphur storage tanks shall be maintained as per plans and specification previously supplied for the approval. When these tanks are drained for maintenance, a structural inspection of the tanks shall be conducted and the findings be reported in writing to the Director.

Monitoring Alteration

28. Although a monitoring program is not part of this approval, the Department may require a monitoring program when it is the judgement of the Director that:
- pollutants might be released to the surrounding environment without being detected; or
 - an adverse environmental effect may occur.

Reporting

29. All incidents of:
- *Contingency Plan* implementation; or
 - non-conformance of any condition within this approval; or
 - spillage or leakage of a regulated substance; or
 - whenever discharge criteria is, or is suspected to be, exceeded; or
 - verbal/written complaints of an environmental nature from the public received by Newsul related to the sulphur prilling plant, whether or not they are received anonymously;

shall be immediately reported, within one working day, to a person or message manager or facsimile machine as follows:

- contact this Department (St. John's office) by phoning (709) 729-2556, or faxing (709) 729-6969.

A written report including a detailed description of the incident, summary of contributing factors, and an Action Plan to prevent future incidents of a similar nature, shall be submitted to the Director. The Action Plan shall include a description of actions already taken and future actions to be implemented, and shall be submitted within thirty days of the date of the initial incident. The address for written report submission is:

Director, Pollution Prevention Division
 Department of Environment and Conservation
 P.O. Box 8700
 St. John's, NL
 A1B 4J6
 Telephone: (709) 729-2556
 Facsimile: (709) 729-6969

30. Any spillage or leakage of gasoline or associated product shall be reported immediately through the Canadian Coast Guard at 1-(709)-772-2083.

Expiration

31. This Certificate of Approval expires *December 1, 2018*.
32. Should the proponent wish to continue to operate FACILITY/PROJECT NAME beyond this expiry date, a written request shall be submitted to the Director for the renewal of this approval. Such request shall be made prior to *June 1, 2018*.

cc: Ms. Maria Dober - Head
Compliance Promotion and Expert Support
Environment Canada – Atlantic Region
45 Alderney Drive
Dartmouth, NS
B2Y 2N6

Mr. Guy Perry - Regional Director
Service NL
2 Masonic Terrace
P. O. Box 1148
Clareville, NL
A0E 1J0

Mayor
Town of Come-by-Chance
Come-by-Chance, NL
P.O. Box 89
A0B 1N0