

Jefferson County Foundation, Inc.

July 16, 2021

Harold Ward
Secretary
Department of Environmental Protection
601 57th Street, S.E.
Charleston, WV 25304

Kathy Emery, Director
Jeremy W Bandy, Acting Deputy Director
Division of Water and Waste Management- Environmental Enforcement,
West Virginia Department of Environmental Protection
601 57th Street S.E.
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Via email

Re: URGENT Rockwool Stormwater Apparent Violations and Concerns

Dear Secretary Ward,

In the last 14 days the Foundation has now sent two letters (this is a third) with urgent concerns that have gone completely unanswered (Attached). Today we received a letter from Acting Director Emory stating that the DEP would not reply until an “investigation” of current violations, was complete in light of the Foundation’s current appeal of Rockwool’s stormwater permit.

We object to this and do not think that a permit appeal should stop investigation and enforcement action, and interrupt the good faith transparency between the Agency and the public over the protection of water resources. The information we have asked for should be available to the entire public as soon as it is available regardless of any ongoing litigation between a single citizens group and the Agency. There is absolutely no support for this in the legislative rules of the Agency or the policies of the State or the Agency, or permitted under any of the federal regulations that the DEP is allegedly implementing. We object to this position in the strongest possible terms and intend to insist on the regulatory transparency we are all entitled.

This is not a simple issue of semantics. Today we discovered several letters Rockwool sent the DEP several weeks ago in June, but apparently not posted until the last two days. These letters raise several concerns:

1. Rockwool is now, according to their own public claims, operational¹, and therefore operating under the Multi-Sector General Permit (MSGP) registration. Why then are all of these letters directed to Keith Ellison an “Environmental Inspector In Training” in the “DWWM-OEE-Construction Stormwater” Working unit?² This inspector appears to be in the incorrect working unit. These letters should be addressed to and handled by a Multi-Sector DEP inspector. Notwithstanding this, Rockwool is of great enough concern to the public and of the complexity we feel that this case is inappropriate for an “Inspector In Training” and would be better handled by a fully qualified inspector who understands the terms and conditions of the MSGP registration and the authority of the DEP.
2. In addition, if this activity were being done under the Construction Stormwater General Permit (CGP) registration, Rockwool should have been required to do a modification of their permit registration with appropriate public comment as this would change the outlet design of a pond.³ This was also not done; so, this major change was not appropriately handled under either permit.
3. These letters from Rockwool to the DEP alone do not give either the amount of information or amount of detail required to determine what exactly the problem was and how exactly the problem is being fixed. How then could this activity have been approved with insufficient information to properly evaluate the problem or how it was being addressed? Additionally, it should be identified and the public should be advised how these defects were identified, how long they may have existed prior to identification, and any risk to groundwater they may have posed while the issues were occurring.
4. Should these developments require a modification of the SWPPP or the MSGP registration? If so, is this being done and if so by who?
5. Were there any responses to these letters from the DEP to Rockwool? If not, why not? If so, these responses and any follow up are critical to the public’s understanding of what is occurring at the site, how the DEP is handling it, and what risk might be posed to the groundwater resources.
6. While the letter dated 6-25-2021 states that the issue in the stormwater pond is “above any water elevations” it does not state the same about the issues in the reuse pond. The previous inspection report states, “The process pond was being drained into the Stormwater Pond, so the facility could clean up after the resident geese onsite.” Was this

¹ This is according to the reporting of several local and regional news outlets. Including this one in The Journal in on May 7, 2021 entitled Rockwool looks to begin production by the end of the month

² This is according to the “West Virginia Department of Environmental Protection Employee Directory” published 7-1-2021 and available for down load at <https://dep.wv.gov/Documents/employeeAddress.pdf>

³ According to the “NPDES Storm Water Construction General Permit Modification Guidance Policy WVR0115924” that can be found on the DEP website <https://dep.wv.gov/WWE/Programs/stormwater/csw/Documents/Modification%20Guidance%20Policy.pdf>

unpermitted outletting of the process pond into the stormwater pond due to geese or because of the required repairs? Was the need for these repairs only noted because the pond was drained due to the geese? If so, how will the maintenance plan be changed such that these issues or breakdowns can be identified immediately?

This is another example of the egregious lack of good faith transparency from the WVDEP to the people the Agency is meant to protect. There also seems to be an appalling lack of due diligence in the inspection and permit enforcement for this facility by the WVDEP. It is important to note we feel we cannot fully evaluate the response of the agency due to the above-mentioned lack of transparency and straightforward information.

We firmly believe that an administrative appeal of a permit registration does not allow the agency to abdicate its responsibility to protect human health and the environment or its obligation to provide good faith transparency to the public. We ask as a community organization that represent the concerns and wishes of many of the immediately adjacent residents that the WVDEP:

1. Post all inspection reports and correspondences between anyone at the agency and anyone at Rockwool to the Application Xtender website in the same location as the existing documents regarding Rockwool within a reasonable time frame (within the business day).
2. Conduct an additional inspection by a different inspector that is fully qualified and from the MSGP working unit. This inspector should fully understand the terms and conditions of Rockwool's MSGP registration and the authority of the DEP.
3. Require Rockwool to correspond with the MSGP permit reviewer (Mr. Burch) and the MSGP inspector rather than the CGP personnel regarding operational changes and issues at the Rockwool Ranson site. This will allow issues to be appropriately addressed in accordance with the MSGP registration.
4. Require Rockwool to provide true, accurate, and complete information at the level of detail required for WVDEP staff to determine the risk posed by any issue identified at the facility property and the adequacy of any repair or change in operation.
5. Require Rockwool to abide by its SWPPP, GPP, and the remainder of the terms and conditions of the MSGP registration. And require to modify the permit registration if necessary, via the appropriate means based on the change required.
6. Suspend the permit and require Rockwool to stop work⁴ until a fully qualified MSGP DEP inspector reviews the risks to the groundwater imposed by these permit violations and the violations are stopped, the risks are appropriately addressed and mitigated, and

⁴ 47 CSR 10-9.4. a.1-4 and 22-12-10-f

the permit registration is appropriately changed if necessary, under the appropriate procedure.⁵

It appears to us, based on a careful read of these letters, that the pond liner has failed. There was no leak detection system to identify the leak, since Rockwool refused to install the leak detection system as requested by the DEP.⁶ There is no information on the amount of water that did leak, or whether that water was contaminated in any way. If our interpretation of these letters is inaccurate, we suggest you correct our good faith misunderstanding.

These are serious issues and the public has serious concerns about the water quality, the lack of good faith transparency, and the WVDEP's willingness to enforce the permit requirements at the Rockwool site to protect human health and the environment.

Regards,



Dr. Christine Wimer
President
Jefferson County Foundation, Inc.

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⁵ Violations include as described by the site inspection performed 6-24-2021 of the Rockwool site, "process pond was being drained into the Stormwater Pond." despite the permit application materials (9-13-2019 applicant response to permit reviewer comments, section 15-17 response 4) specifically stating, "The Rainwater Re-Use Pond has no outlet."

⁶ According to the March 2020 letter from Rockwool to the DEP responding to the DEP request for Rockwool to install a double liner and interstitial leak detection system in the wet ponds.

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