

Attachment 16

From: Pratt, Marirose <Pratt.Marirose@epa.gov>
Sent: Wednesday, January 12, 2022 4:06 PM
To: Roger Truitt <wrtruitt@hotmail.com>
Cc: Hines, Andrea <hines.andrea@epa.gov>
Subject: Interim response for New Indy : FOIA Request EPA-R4-2021-005067

Mr. Truitt,

Please find attached the cover letter and summary of responsive documents associated with this interim response to your FOIA Request EPA-R4-2021-005067.

I just sent you an email with a link to the folder where you should have access to all of the responsive documents. If you did not receive that email or have trouble accessing any documents, please let me know.

Regards,
Marirose

Marirose J. Pratt
Senior Air Enforcement Attorney
Air & EPCRA Law Office
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
Phone: 404-562-9023
Fax: 404-562- 9486
pratt.marirose@epa.gov

THIS MESSAGE, INCLUDING ATTACHMENTS, CONTAINS SENSITIVE INFORMATION THAT IS INTENDED ONLY FOR THE RECIPIENT(S). INFORMATION IN THIS MESSAGE IS CONFIDENTIAL AND MAY BE PROTECTED BY ATTORNEY/CLIENT, WORK PRODUCT, OR OTHER PRIVILEGES.

Summary of Supplemental Response to FOIA Request EPA-R4-2021-005067, following meetings held with requestor on January 5 and 11, 2022.

1. The basis for EPA's decision to issue the May 13, 2021 CAA Section 303 Order.

The basis for EPA's decision to issue the May 13, 2021 Order is contained in the Administrative Record supporting that decision, an index of which is included with this response. Many of the documents are either already publicly available or are more administrative in nature. Therefore, with this response, EPA is providing you with the documents that are not already publicly available, and that Region 4 believes would be of most interest to you. Those documents are highlighted in the index included with this response.

2. The basis for EPA's decision to file the Complaint on July 12, 2021.

The basis for EPA's decision to file the Complaint is contained within the Complaint itself, and other publicly available records referenced in the Complaint (for example, New Indy's fence line monitoring results). To the extent other documents leading up to the decision to file the Complaint exist, they would be covered by FOIA exemption 5 as deliberative process, attorney work product and/or attorney client communication, as well as FOIA exemption 7(A) as information compiled for law enforcement purposes.

3. The basis for the number and location of fence line monitors required by the 303 Order.

The following documents are relevant to the EPA's basis for the number and location of fence line monitors required by the 303 Order:

- a. 5-21-21 letter from Dan Mallet to Kevin Taylor
- b. 4-28-21_FW NICB INFORMATION re location of monitors
- c. 05-21-2021_New Indy Station 1 Placement Request - EPA v2
- d. 5-10-21_New-Indy Please update the order requirements below
- e. 5-17-21 New-Indy Catawba LLC Request for Alternative Ambient Monitoring Location
- f. New Indy H2S Monitor Locations
- g. thumbnail_Facility layout 2021 April 28
- h. 5-10-21_303 monitor locations

4. The basis for requiring New Indy to monitor for hydrogen sulfide as part of the 303 Order.

The basis for requiring New Indy to monitor for hydrogen sulfide as part of the 303 Order is contained within the Administrative Record mentioned above. Region 4 also located the following non-privileged documents related to this decision, some of which overlap with EPA's decision to require monitoring for just hydrogen sulfide as a term of the proposed Consent Decree (to the extent other records exist on this topic, they would be covered by FOIA exemption 5 as deliberative process, attorney work product and/or attorney client communication, as well as FOIA exemption 7(A) as information compiled for law enforcement purposes):

Summary of Supplemental Response to FOIA Request EPA-R4-2021-005067, following meetings held with requestor on January 5 and 11, 2022.

- a. EPA 450 2 78 003a control TRS from pulp mills 1978 Jan
- b. EPA 450 2 78 003b TRS control 1979 March
- c. 10-14-21_ New Indy - H2S in TRS
- d. Initial Performance Test Aug 2021
- e. Test report 2021 July

5. The toxicologist report and long-term plan required by paragraph 52.h of the 303 Order.

As Marirose Pratt explained in an August 8, 2021 email to you, New Indy submitted the Corrective Action Plan that it prepared for the South Carolina Department of Health and Environmental Control (DHEC) to EPA for purposes of meeting the requirements of Paragraph 52.h of the 303 Order. The following email records related to the long-term plan and the toxicologist report are provided with this response:

- a. 7-2-21_ New Indy Corrective Action Plan
- b. 8-10-21_ RE FOIA Request 2021-005067
- c. 6-3-2021_ New Indy Toxicologist_ Teaf letter

6. New Indy's response to EPA's November 17, 2021 CAA Section 114 Information Request.

The following records of New Indy's response to the November 17, 2021 CAA Section 114 Information Request are provided with this response:

- a. 11-23-21_ EPA Section 114 Information Request November 19 2021 – Response
- b. New-Indy Response to EPA Section 114 Information Request 061521
- c. New-Indy Catawba Chemical SDSs
- d. New-Indy Catawba LLC WWTP Chemical Addition Diagram - November 2021
- e. NICB WWTP Chemical Usage Summary - EPA 114 Request

7. Notes from MS Teams meetings that took place between EPA, DHEC, and/or New Indy since May 2021, including the meetings that took place on May 26, 2021, June 14, 2021, and August 25, 2021.

The following non-privileged notes from the EPA employees listed in your August 27, 2021 email to Andrea Hines are provided with this response (Because EPA and DHEC have entered into a confidentiality agreement regarding the New Indy matter, EPA employee notes from meetings that were held between just EPA and DHEC were not searched as they are likely covered by FOIA exemption 5 as deliberative process, as well as FOIA exemption 7(A) as information compiled for law enforcement purposes. Notes generated by Marirose Pratt or Suzanne Rubini would be covered by FOIA exemption 5 as attorney-work product and Exemption 7(A) as information compiled for law enforcement purposes):

- a. 6-14-2021_Denis Kler Notes

Summary of Supplemental Response to FOIA Request EPA-R4-2021-005067, following meetings held with requestor on January 5 and 11, 2022.

- b. 09_21_New Indy Notes – Dressler
- c. New Indy TAR Log FY 21 22
- d. New Indy meeting notes DK 2021
- e. Call with SC DHEC and New Indy
- f. Call with New Indy and SC DHEC on 92721
- g. New Indy and SC DHEC Call on 10421
- h. New Indy and SC DHEC Call on 101821
- i. New Indy and SC DHEC Call on 102521
- j. New Indy and SC DHEC Call on 11821 and 11121
- k. New Indy and SC DHEC Call on 111521
- l. New Indy and SC DHEC Calls on 12621 and 113021
- m. New Indy and SC DHEC Calls on 121321
- n. New Indy and SC DHEC Call on 11022