



Conservation

Climate Change and Environmental Protection Division
Environmental Assessment and Licensing Branch
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www.gov.mb.ca/conservation/eal

CLIENT FILE NO.: 2459.00

June 29, 2011

Mr. Kevin Stevens, Brandon Facility Manager
Praxair Canada Inc.
1205, 17th Street East
Brandon MB R7A 7C9

Dear Mr. Stevens:

Enclosed is **Environment Act Licence No. 2963** dated June 29, 2011 issued in accordance with The Environment Act to **Praxair Canada Inc.** for the continued operation of the Development being a liquid carbon dioxide production facility located at 1205, 17th Street East in Brandon, in accordance with the proposal filed under The Environment Act dated June 28, 2010 and supplementary information provided July 20, 2010 and February 14, 2011.

In addition to the enclosed Licence requirements, please be informed that all other applicable federal, provincial and municipal regulations and by-laws must be complied with. A Notice of Alteration must be filed with the Director for approval prior to any alteration to the Development as licensed.

For further information on the administration and application of the Licence, please feel free to contact Adrian Jackson, Environment Engineer at 204-945-7108.

Pursuant to Section 27 of The Environment Act, this licensing decision may be appealed by any person who is affected by the issuance of this Licence to the Minister of Conservation within 30 days of the date of the Licence.

Yours truly,

fe. Tracey Braun, M. Sc.
Director
Environment Act

Enc.

c: Don Labossiere, Director, Environmental Operations
Public Registries

NOTE: Confirmation of Receipt of this Licence No. 2963 (*by the Licencee only*) is required by the Director of Environmental Assessment and Licensing. Please acknowledge receipt by signing in the space provided below and faxing a copy (letter only) to the Department by July 13, 2011.

On behalf of Praxair Canada Inc.

Date

****A COPY OF THE LICENCE MUST BE KEPT ON SITE AT THE DEVELOPMENT AT ALL TIMES****

LICENCE

Licence No. / Licence n°

2963

Issue Date / Date de délivrance

June 29, 2011

In accordance with The Environment Act (C.C.S.M. c. E125) /
Conformément à la Loi sur l'environnement (C.P.L.M. c. E125)

Pursuant to Section 10(1) / Conformément au Paragraphe 10(1)

THIS LICENCE IS ISSUED TO : / CETTE LICENCE EST DONNÉE À :

PRAXAIR CANADA INC.; "the Licencee"

for the continued operation of the Development being a liquid carbon dioxide production facility located at 1205, 17th Street East in Brandon, in accordance with the proposal filed under The Environment Act dated June 28, 2010 and supplementary information provided July 20, 2010 and February 14, 2011 and subject to the following specifications, limits, terms and conditions:

DEFINITIONS

In this Licence,

"**accredited laboratory**" means an analytical facility accredited by the Standard Council of Canada (SCC), or accredited by another accrediting agency recognized by Manitoba Conservation to be equivalent to the SCC, or be able to demonstrate, upon request, that it has the quality assurance/quality control (QA/QC) procedures in place equivalent to accreditation based on the International Standard ISO/IEC 17025, or otherwise approved by the Director;

"**affected area**" means a geographical area excluding the property of the Development;

"**approval**" means approved by the Director, or an assigned Environment Officer, in writing;

"**dangerous good**" means any product, substance or organism designated in the regulations, or conforming with the criteria set out in the regulations, or in any regulation adopted in accordance with The Dangerous Goods Handling and Transportation Act, and includes hazardous wastes;

"**Director**" means an employee so designated pursuant to The Environment Act;

"**Environment Officer**" means an employee so designated pursuant to The Environment Act;

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"noise nuisance" means an unwanted sound in an affected area, which is annoying, troublesome, or disagreeable to a person:

- a) residing in an affected area;
- b) working in an affected area; or
- c) present at a location in an affected area which is normally open to the members of the public;

if the unwanted sound

- d) is the subject of at least 5 written complaints, received by the Director in a form satisfactory to the Director and within a 90 day period, from 5 different persons falling within clauses a), b), or c), who do not live in the same household; or
- e) is the subject of at least one written complaint, received by the Director in a form satisfactory to the Director, from a person falling within clauses a), b), or c), and the Director is of the opinion that if the unwanted sound had occurred in a more densely populated area there would have been at least 5 written complaints received within a 90-day period from 5 different persons who do not live in the same household;

"odour nuisance" means a continuous or repeated odour, smell or aroma, in an affected area, which is offensive, obnoxious, troublesome, annoying, unpleasant, or disagreeable to a person:

- a) residing in an affected area;
- b) working in an affected area; or
- c) present at a location in an affected area which is normally open to the members of the public;

if the odour, smell or aroma

- d) is the subject of at least 5 written complaints, received by the Director in a form satisfactory to the Director and within a 90 day period, from 5 different persons falling within clauses a), b), or c), who do not live in the same household; or
- e) is the subject of at least one written complaint, received by the Director in a form satisfactory to the Director, from a person falling within clauses a), b), or c), and the Director is of the opinion that if the odour, smell or aroma had occurred in a more densely populated area there would have been at least 5 written complaints received within a 90-day period from 5 different persons who do not live in the same household;

"opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background;

"particulate matter" means any finely divided liquid or solid matter other than water droplets;

"particulate residue" means that part or portion of an atmospheric emission which is deposited onto a surface;

"point source" means any point of emission from the Development where pollutants are emitted to the atmosphere by means of a stack;

"pollutant" means any solid, liquid, gas, smoke, waste, odour, heat, sound, vibration, radiation or any combination of any of them that is foreign to or in excess of the natural constituents of the environment, and

- a) affects the natural, physical, chemical or biological quality of the environment, or

- b) is or is likely to be injurious to the health or safety of persons or injurious or damaging to property or to plant or animal life, or
- c) interferes with or is likely to interfere with the comfort, being, livelihood or enjoyment of life by a person;

"Standard Methods for the Examination of Water and Wastewater" means the most recent edition of Standard Methods for the Examination of Water and Wastewater published jointly by the American Public Health Association, the American Waterworks Association and the Water Environment Federation;

"waste(s)" means any matter, substance, or emission which is or has been created or emitted by the transportation, storage, treatment or handling of any product whatsoever and which is or should be intended for discard or disposal; and

"wastewater" means any liquid containing a pollutant as defined in The Environment Act, associated with or resulting from the Development which is discharged into the environment.

GENERAL TERMS AND CONDITIONS

This Section of the Licence contains requirements intended to provide guidance to the Licencee in implementing practices to ensure that the environment is maintained in such a manner as to sustain a high quality of life, including social and economic development, recreation and leisure for present and future Manitobans.

1. The Licencee shall implement a high standard of equipment maintenance and good housekeeping and operational practices with respect to the Development, at all times.
2. The Licencee shall reduce the production and dissemination of wastes by initiating and maintaining waste reduction and waste recycling programs.
3. The Licencee shall, upon the request of the Director and in addition to any of the limits, terms or conditions specified in this Licence:
 - a) sample, monitor, analyze and/or investigate specific areas of concern regarding any segment, component or aspect of pollutant storage, containment, treatment, handling, disposal or emission systems, for such pollutants or ambient quality, aquatic toxicity, leachate characteristics and discharge or emission rates, for such duration and at such frequencies as may be specified;
 - b) determine the environmental impact associated with the release of any pollutants from the said Development; or
 - c) provide the Director, within such time as may be specified, with such reports, drawings, specifications, analytical data, descriptions of sampling and analytical procedures being used, bioassay data, flow rate measurements and such other information as may from time to time be requested.

4. The Licencee shall, unless otherwise specified in this Licence:
 - a) carry out all preservations and analyses on liquid samples in accordance with the methods prescribed in the most current edition of Standard Methods for the Examination of Water and Wastewater or in accordance with equivalent preservation and analytical methodologies approved by the Director;
 - b) carry out all sampling of, and preservation and analyses on, soil and air samples in accordance with methodologies approved by the Director;
 - c) certify that all analytical determinations are undertaken by an accredited laboratory; and
 - d) report the results to the Director within 60 days of the samples being taken.
5. The Licencee shall carry out, as deemed necessary by the Director, any remedial measures or modifications in respect to matters authorized under this Licence.
6. The Licencee shall obtain approval in writing from the Director for any proposed alterations to the facility before proceeding with an alteration.
7. The Licencee shall submit all information required to be provided to the Director under this Licence, in writing, in such form (including number of copies) and of such content, as may be specified by the Director, and each submission shall be clearly labelled with the Licence Number and Client File Number associated with this Licence .

LIMITS, TERMS AND CONDITIONS

8. The Licencee shall install and maintain a fence around the Development to limit access. The fence shall be a minimum of 1.2 meters high and have a locking gate, which shall be locked at all times except to allow access to the Development.
9. The Licencee shall comply with the requirements of *Manitoba Regulation 188/2001* respecting *Storage and Handling of Petroleum Products and Allied Products Regulation* or any future amendment thereof, with respect to all storage tank systems located at the Development, where applicable.

Respecting Air Emissions

10. The Licencee shall not cause or permit an odour nuisance to be created as a result of the construction, operation, or alteration of the Development, and shall take such steps as the Director may require to eliminate or mitigate an odour nuisance.
11. The Licencee shall not cause or permit a noise nuisance to be created as a result of the construction, operation, or alteration of the Development, and shall take such steps as the Director may require to eliminate or mitigate a noise nuisance.

Respecting Wastewater

12. The Licencee shall discharge wastewater only to the City of Brandon sewage collection system, or in a manner approved by the Director.

Respecting Chemical Storage and Spill Containment

13. The Licencee shall comply with all the applicable requirements of:
- a) Manitoba Regulation 188/2001, or any future amendment thereof, respecting the *Storage and Handling of Petroleum Products and Allied Products*; and
 - b) Manitoba Fire Code, Regulation 163/98 of The Fire Prevention And Emergency Response Act (C.C.S.M. c. F80).
14. The Licencee shall provide appropriate storage of chemicals being stored at the Development, with flammable products cabinets used where required.

Respecting Solid Waste

15. The Licencee shall dispose of all solid waste generated from any activity at the Development at the Brandon waste disposal grounds, or in a manner approved by the Director.

Respecting Financial Assurance

16. The Licencee shall post with the Manitoba Department of Conservation in the amount of \$200,000:
- a) a permit bond issued by a surety company licenced to do business in the Province of Manitoba;
 - b) an irrevocable letter of credit; or
 - c) another acceptable security satisfactory to the Director.

This permit bond, irrevocable letter of credit, or other security and renewals thereof shall remain in place for the duration of the operation and decommissioning of the Development. The Director may order forfeiture of the permit bond, irrevocable letter of credit, or other security, either in whole or in part, by giving written notice to that effect to the Licencee, upon the Director being satisfied that the Licencee is in breach of any specification, limit, term or condition of this Licence, or for reimbursement of any costs or expenses incurred by the Province of Manitoba in rectifying environmental damage caused or contributed to by the operation of the facility.

17. The Licencee shall, on an annual basis, provide evidence of environmental liability insurance coverage for the Development that meets Manitoba Conservation's minimum requirement of the following:
- a) \$5,000,000 per occurrence for any third party gradual as well as sudden and accidental pollution liability; and
 - b) \$ 1,000,000 per occurrence for any sudden and accidental pollution clean-up for land and water at the Development resulting from a property risk peril such as fire, explosion and wind.

18. The insurance as required by Clause 17 shall be held with insurers satisfactory to the Province of Manitoba, shall include the Province of Manitoba as an Additional Insured on the policy, and shall contain a clause stating that the Insurer will give Manitoba 30 days prior written notice in case of significant reduction in coverage or policy cancellation.

Respecting Decommissioning


19. The Licencee shall submit, within six months of the date of issuance of this Licence, for the approval of the Director, a preliminary Closure and Post Closure Plan for the Development. The plan shall include, but not be limited to, information with respect to:
- a) clean up of the site including removal of all equipment;
 - b) testing for soil contamination of the site; and
 - c) financial assurance/insurance required to implement the Plan.
20. The Licencee shall submit within one (1) year prior to closure of the facility, for the approval of the Director, a formal detailed Decommissioning Plan for the facility.
21. The Licencee shall implement, on closure of the facility, the approved Decommissioning Plan

Respecting Emergency Response Planning

22. The Licencee shall submit to the Director for approval, within 30 days of the date of this Licence, a contingency plan, in accordance with the Manitoba Industrial Accidents Council (MIAC) *Industrial Emergency Response Planning Guide*, or another format as approved by the Director, outlining procedures to be used in the event of a leak, spill, fire, or other hazardous condition at the Development.

REVIEW AND REVOCATION

- A. If, in the opinion of the Director, the Licencee has exceeded or is exceeding or has or is failing to meet the specifications, limits, terms, or conditions set out in this Licence, the Director may, temporarily or permanently, rescind this Licence.
- B. If, in the opinion of the Director, new evidence warrants a change in the specifications, limits, terms or conditions of this Licence, the Director may require the filing of a new Proposal pursuant to Section 10 of The Environment Act.


Tracey Braun, M.Sc.
Director
Environment Act