

Länsstyrelsen
Norrbotten

Date 2023-
03-20

Case designation
551-11639-2022

Plant No. 2580-
108

Land and Environment Court
mmd.umea@dom.se

Opinion on file annexes 72-75 regarding Talga AB's application for a permit for the establishment and operation of a plant for the manufacture of battery anode material from graphite concentrate within part of the property Luleå Hertsön 11:1 and 11:1010,

Luleå municipality

Case No. M 1826-22

Background

The Land and Environment Court has ordered the County Administrative Board to comment on Appendix Nos 72-75 regarding Talga AB's, hereinafter the Company, application for a permit for the establishment and operation of a facility for manufacture of battery anode material from graphite concentrate within part of the property Luleå Hertsön 11:1 and 11:1010, Luleå municipality.

In order to make our opinion clear, the County Administrative Board is mainly based on the company's numbering.

In response to the court's injunction, Act Appendix 76, the County Administrative Board states the following.

The County Administrative Board's position

B.1 - Risk and safety.

The company has submitted additional information regarding risks associated with large leakage of hydrofluoric acid outdoors within the business. The County Administrative Board shares the company's view that these risks in the business area are acceptable based on what has now been reported. In the case of transport of hydrofluoric acid (successors), this is likely to entail greater risks than those foreseen in the field of activity but can also be considered admissible provided that current regulations regarding the transport of dangerous goods are followed.

B.2 – Discharges to water;

The County Administrative Board's continued assessment is that additional emissions of zinc and mercury to Sörbrändöfjärden than already occur are not admissible according to Chapter 2. Sections 3 and 5.4 and Section 5 of the Environmental Code.

In order to allow for a final assessment of the issue of admissibility and whether it is possible to limit emissions to a sufficient extent by conditions, it is necessary for the company to supplement the application with information on purification technology and degree of purification so that the emissions from the business do not risk jeopardizing the applicable environmental quality standard and / or causing damage or inconvenience to the environment. The County Administrative Board considers that the above is a basic prerequisite for the company to be considered to have shown that they intend to use the best possible technology (BAT). Until then, there can be no question of raising the issue of exemptions from the environmental quality standards according to Chapter 4. Sections 9 or 11 and 12 of the Water Management Ordinance (2004:660).

In the event of the above-mentioned scenario, the County Administrative Board requests that the court request an opinion from the Water Authority pursuant to Chapter 22. Section 13 of the Environmental Code and Chapter 4. Section 13 of the Water Management Ordinance.

B.3 – Stormwater.

The County Administrative Board has reviewed the company's additions regarding stormwater management and after this perceives that the company's planned stormwater management will be consistent with the system solution for stormwater that was developed for the zoning plan. The County Administrative Board therefore considers that the planned activities are compatible with the current zoning plan.

C.2 – Emissions to Air;

The County Administrative Board notes that the company accepts the Swedish Environmental Protection Agency's terms and conditions proposal. The County Administrative Board agrees with this wording of the terms and conditions.

C.3 – Noise and vibration.

The company opposes the county administrative board's claim that the night period should be 22:00-07:00 and that the instantaneous noise level at night (10 p.m) shall not exceed 55 dBA. The County Administrative Board maintains its position.

C.4 – Reindeer husbandry.

2023-03-20

551-11639-2022

The company is opposed to co-operation with Gällivare Sami village and the supervisory authority. The County Administrative Board maintains its position.

C.5 – Energy Conservation.

The County Administrative Board notes that the company has no substantive objection to the authority's condition proposal except for the time interval for the reporting. The County Administrative Board maintains its position.

C.6 ?

C.7 – Delegations

Dusting. The company opposes the county board's motion that the condition should be joined by a delegation to announce the necessary measures and precautions to reduce dusting. The County Administrative Board maintains its position.

Reindeer husbandry. The Company opposes the County Administrative Board's motion that the condition should be joined by a delegation to ensure the possibility, if necessary, of deciding on the necessary measures and precautions to minimize possible disruption to the industry. The County Administrative Board maintains its position.

Energy conservation. The company opposes the county board's request for delegation to the regulatory authority regarding authorization to announce conditions for reasonable energy conservation measures developed within the framework of the energy conservation plan. The County Administrative Board maintains its position.

Risk, chemicals and waste. The company opposes the county administrative board's request for delegation to the supervisory authority regarding staffing, training etc. in the case of the specified task force. The County Administrative Board maintains its position.

Below are the reasons for the county administrative board's position.

Development of the action

B.1 - Risk and safety, including delegation C.7, on risks,

The County Administrative Board notes that the business will be subject to the higher level of requirements of the Seveso legislation, which means that the business is also a dangerous activity.

According to chapter 2. Section 4 of the Act (2003:778) on protection against accidents contains the following obligations in the case of hazardous activities: "*At a facility where the activity involves a danger that an accident shall: cause serious harm to man or the environment, the owner of the installation or the person exercising the work on the*

2023-03-20

551-11639-2022

installation is obliged to keep or pay for a reasonable extent: preparedness with personnel and property and otherwise take the necessary measures to prevent or limit such damage.

The person carrying out the activity is obliged to analyze the risks of the accidents referred to in the first subparagraph.

The first and second paragraphs also apply to airports that have been granted an operating permit in accordance with Chapter 6. Section 8, first paragraph, of the Aviation Act (2010:500) and activities covered by the Act (1999:381) on measures to prevent and limit the consequences of serious chemical accidents. Law (2015:234)."

The County Administrative Board considers that the company has a far-reaching responsibility to maintain or pay for preparedness with personnel and property to a reasonable extent and otherwise take the necessary measures to prevent or limit serious harm to humans or the environment. This is because the municipality's dimensions of the municipal rescue service are not dimensioned for the type of large-scale chemical accidents that may occur during the company's operations and it is not nor the municipality's obligation to dimension for this.

As previously stated by the County Administrative Board, the Authority considers that, in view of the substances that will be dealt with and their inherent dangerousness, it is justified for the court to prescribe a condition on a first task force to deal with fire, gas leakage, explosion and other serious incidents. Furthermore, the County Administrative Board understands that a more detailed specification of the task force cannot take place before the final design of the facility has been determined. In light of this, the County Administrative Board considers that the condition should be combined with a delegation for the design of the task force to ensure that there is an opportunity for the supervisory authority to: decide on the measures that may be required on the basis of the final design and operation of the installation.

(County Administrative Board, condition 11b.) The company must maintain or pay for a first response force that will be able to handle fire, leakage of gas, explosion and other serious incidents. To that end, the first response force shall have the ability to prevent or limit serious damage to humans and the environment. Part of the first response force shall, for the initial management of fire , leakage of gas, explosion and other serious incidents, be located within or directly adjacent to the business area. The company shall consult with the supervisory authority and the municipality to ensure that the business has a relevant preparedness and ability to handle accidents over time.

(County Board) The Land and the Environmental Court , pursuant to Chapter 22, transfers the power of the Environment Code. Section 25(3) of the Environmental Code to the supervisory authority to issue additional conditions that may be needed in the following cases.

(d) staffing, training, etc.; in respect of the task force specified in condition 11b.

The County Administrative Board considers it important that the authority receives a delegation to announce additional conditions that may be needed regarding staffing, training, etc. in respect of the specified task force.

B.2 - Emissions to water

The County Administrative Board's continued assessment is that new emissions of zinc and mercury to Sörbrändöfjärden are prohibited according to Chapter 5. Section 4 of the Environmental Code and that the examining authority should therefore obtain in particular opinion of the water authority to grant exemptions if possible. Making demands on the business regarding emission reduction (purification methods) or other measures is important to reduce the impact on the affected aquatic environments in Sörbrändöfjärden.

The reasoning about caution and exceptions above is further justified by the fact that it is planned for several major industrial operations that are considered to be able to affect Sörbrändöfjärden with emissions. From a water management perspective, it is important to assess the cumulative impact that both the current activities sought and future planned activities will have on the aquatic environments in the recipient Sörbrändöfjärden. The County Administrative Board notes that it may be possible for the Water Authority for a particular water body to decide on less stringent quality requirements according Chapter 4. Section 10 of the Water Management Ordinance (2004:660), but there are very high demands on far-reaching purification of emissions to recipients before this could be relevant.

New classification in Water Information Systems Sweden (VISS)

Following the company's application, the County Administrative Board has updated the status assessment regarding the water body Sörbrändöfjärden. The old assessment included data until 2018. The new assessment includes data between the years 2019 – 2021. Data from 2022 have also been taken into account, but this was intended at the time of assessment because the data collector then suspected that the high levels of zinc were due to contamination at the time of sampling. The data collector returned on 14 March 2023 with information that it is unlikely to be a case of sampling contamination. In addition to data from the coordinated recipient control program (SRK), data from a municipal monitoring station (YS1) has also been used as a basis for the status assessment. Figure 1 below shows the monitoring stations L2, L3 and YS1 in Sörbrändöfjärden.

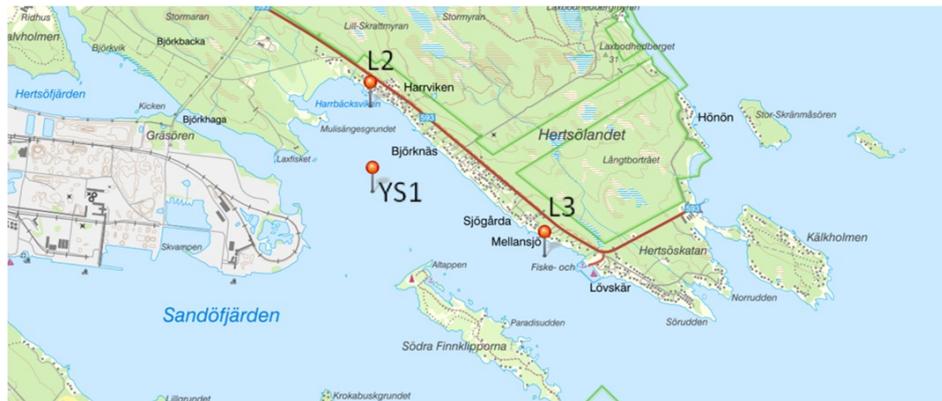


Figure 1: Map showing monitoring stations in Sörbrändöfjärden.

Data from the coordinated recipient control programme show (as already illustrated by the company in Figure 1, Act Appendix 76) that the assessment basis limit value for zinc is exceeded in 2020 in stations L2 and L3 according to the Swedish Agency for Marine and Water Management's regulation HVMFS 2019:25.

The County Administrative Board uses calculated annual averages for comparison with this limit value. This is because the threshold value in the assessment basis is given as the annual average. In 2021, the annual average of zinc concentrations (4 measurements) clearly exceeds the limit value (1.1 µg/l) in Luleå municipality's monitoring station YS1. Overall, the condition for moderate status regarding the quality factor 'special pollutants' is met according to Chapter 2. Section 4 of HVMFS 2019:25.

The annual averages of zinc, Zn, (µg/l) are illustrated in Figure 2. The weakly dotted bars in Figure 2 are annual averages that have not formed the basis for the new status assessment:

- The purple bar 2020 is based on data from the municipality's monitoring station, only two samples were taken that year.
- The bars with blue and orange color from 2022 are data from SRK, stations L2 and L3. The data collector (SSAB EMEA AB in Luleå) suspected contamination in connection with the sampling this year because the levels are so elevated, but it has been shown in retrospect according to the data collector's statement that there is no question of lack of sampling hygiene.

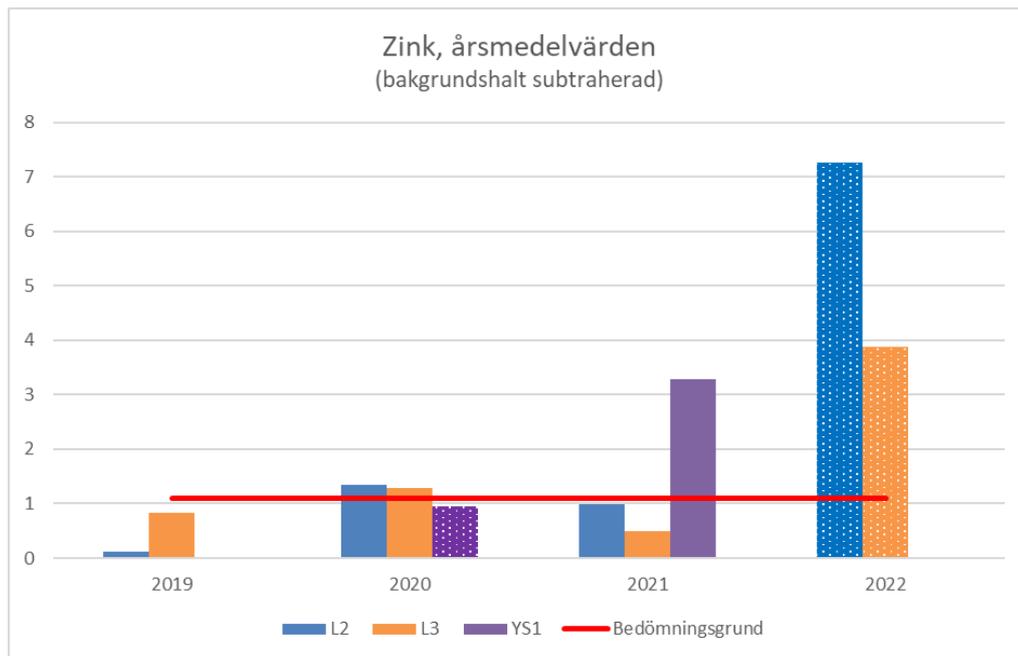


Figure 2. Data for dissolved zinc, Zn, ($\mu\text{g/l}$) from 3 stations in Sörbrändöfjärden between 2019 and 2022. L2 and L3 are the SRK stations, YS1 is Luleå municipality's station within the control range for the Hertsö field.

Data on zinc (Zn) from Luleå municipality's monitoring station are presented in Table 1.

Table 1: Zinc levels from the municipal monitoring station YS1.

Date	Zn ($\mu\text{g/l}$) filters
2020-07-20	0,5
2020-08-26	2,5
2021-01-25	5,7
2021-02-24	3,7
2021-07-19	1,3
2021-08-31	4,6

The annual averages that form the basis for the status assessment have been calculated by first calculating annual averages for each year and station. Then the background content of $0.55 \mu\text{g/l}$ has been subtracted.

The County Administrative Board informs that it is possible to carry out the above-mentioned requests in various ways. The subtraction of the background content can also be done for each measurement occasion and then calculate annual averages for each station. But then the question arises of how to deal with negative results. Either negative results can be completely disregarded or the original content can be used without subtracting the background content. In both cases, the result is higher annual averages and thus clearer exceedances of

2023-03-20

551-11639-2022

the assessment basis and a lower reliability of the assessment.

B2.2 Legal Bases

The County Administrative Board perceives that the company seems to be confusing the concepts regarding the jeopardizing of the possibility of achieving the environmental quality standard versus the interpretation of the deterioration ban.

The Company states under item 9, Act Appendix 72, that *" An additional pollutant in a body of water which is already in good ecological status and which will continue to have good ecological status if: the current activity or action is not permitted involves any endangerment. A change within a class boundary, for example within moderate status, should not in itself be considered as a compromise either . There is thus quite a wide scope for authorising activities or measures which, in themselves, put pressure on the work of improving the aquatic environment, or which make it's harder to achieve the right water quality."* and referred to Bill 2017/18:243, p. 193.

The County Administrative Board perceives that it is an interpretation of a text that deals with the jeopardizing of the possibility of achieving the environmental quality standard. The County Administrative Board refers to the following quote in Bill 2017/18:243, s 193. *"Additional pollution in a water that already has good ecological status and, if the condition is allowed, will continue to have good ecological status does not endanger it. Furthermore, a change within a class boundary, e.g. within moderate status, not in itself considered to jeopardize the ability to achieve the right quality of the aquatic environment, at least as long as new practice from the European Court of Justice does not say something else."* This text is therefore not about the interpretation of the prohibition of deterioration.

For the interpretation of the prohibition of deterioration, it should be the following that applies according to proposition 2017/18:243, pp. 192-193. *'Under EU law, the prohibition of sales must mean that the activity or measure must not lead to such a significant deterioration in the quality of the water that the water must be characterised as: a lower status than the status of the water body prior to the commencement of operations or operations. In addition, the Weser judgment (see section 4.6) has clarified that an unauthorized deterioration occurs already if one of the relevant quality elements deteriorates so much that the body of water – if: The status was determined solely on the basis of then quality factor – would need to be characterized to a lower status. Thus, an unauthorised deterioration can occur only by deteriorating a quality factor to a lower status, even if the body of water as a whole, taking into account all quality factors do not need to be characterized to a lower status. Through the Weser judgment, the Court of Justice of the European Union has also clarified that if the quality of water in relation to a*

quality factor is already in the worst quality class, any deterioration within that quality factor shall be considered an unauthorised deterioration.'

The County Administrative Board understands that the company believes that there is room to allow activities or measures that put pressure on the aquatic environment. However, this only applies to the ecological status of quality factors other than the 'specific polluting target'. According to the so-called Weser judgment, no further deterioration is allowed when a quality factor is status assessed to the lowest status class, not even at the parameter level. The ecological status of the quality factor 'special pollutants' (SFÄ) has only two status classes: good or moderate status. In previous opinions, the County Administrative Board has stated that the company's documentation shows that moderate status prevails in the water body and has therefore also changed the VISS to further clarify that assessment. Since the county board assesses that moderate status prevails for ecological status / quality factor SFÄ , it is the county administrative board's opinion that no additional emissions to the water body is allowed according to Chapter 5. Section 4 of the Environmental Code with the support of the Weser judgment. This is because the activity sought increases the load of zinc to the occurrence by 44 kg/year, which would represent 17% of the total load of zinc via the outlet from Inner Hertsöfjärden and the emissions of the searched operations.

It is the county administrative board's assessment that this would probably contribute to increased levels of zinc in the water body Sörbrändöfjärden and therefore constitute status deterioration at the parameter level. As a result, there is no further scope for allowing activities that result in new emissions of zinc.

B.2.3 Recipients

The County Administrative Board has changed the assessment in VISS based on data for the period 2019 – 2021 (see above). The assessment is based on the same database that the company previously presented. The County Administrative Board is sticking to previous assessments.

The minimum sampling frequency requirement (4 times/year) is met for the data used for the classification. See table 3.3, pp. 30-31 in the Swedish Environmental Protection Agency's Handbook 2008:2. It indicates the minimum frequency on the line next to the bottom (other pollutants).

However, the frequency of sampling of priority substances (1 g/month) is not met in the SRK monitoring. Zinc is not a priority substance but therefore falls under the heading 'other pollutants'.

In some cases, the County Administrative Board may use multi-year

2023-03-20

551-11639-2022

averages, for example if the sampling frequency has been lower than that stated in (NV-Handbook 2008:2). However, this means that the assessment's reliability deteriorates because the assessment base's limit value for zinc is developed as annual averages.

Another argument for not using multi-annual averages for the status assessment of specific pollutants is that there is a risk of detracting from the effects of substances designated as environmental toxins. It is about a body of water that is already affected by emissions from existing industry and contaminated soil. As the WFD aims to protect aquatic environments and their ecosystems (protection of water as a drinking water resource does not apply here), the precautionary principle should be applied. Given that measures for better aquatic environments are central to the WFD, it is important to detect any environmental problems as early as possible in order to be able to point on action needs (and hopefully also real action where needed).

In paragraph 12, Appendix 72, the company states "*[...] that it is not appropriate to assess the status of a quality factor or a particular substance solely on the basis of a single year's average, since recipient data from single years will always exhibit some variety*". The County Administrative Board has assessed ecological status regarding the quality factor special pollutants according to the Swedish Agency for Marine and Water Management's regulation HVMFS 2019: 25.

The limit value for good ecological status of specific pollutants for zinc is indicated in this Regulation as an annual average. The fact that elevated levels have been analyzed in some samples is not strange considering that Sörbrändöfjärden is already burdened by pollution partly via the outlet from Inre Hertsöfjärden (and probably to some extent also from Sandöfjärden), partly via diffuse leakage from the industrial area on Svartön (ditches and groundwater). The exact origin of impurities in various episodes of elevated slippery slopes is not investigated in detail, either in the basis of the present application or in any other fall. From the county administrative board's perspective, there are currently significant sources of zinc that already burden the water body Sörbrändöfjärden (industry, contaminated land areas and stormwater). It is the county administrative board's assessment that episodes with elevated levels of zinc in Sörbrändöfjärden are caused by one or more of these sources of influence.

Item 13, Appendix 72: The County Administrative Board has chosen to disregard data from 2022 (due to possible contamination problems, see above). Excluding anomalous (elevated) levels risks rendering in misleading annual averages. Whether the measured content of zinc corresponds to reality or not and what levels actually prevailed at the time of measurement is not known. It is therefore not possible to say whether annual averages from 2022 exceed the good status limit value for zinc or not.

In paragraph 15, Appendix 72, the company states that there is in fact good standing in showing the number of annual averages below the zinc limit value. What is to be judged, however, is not the number of undercuts. In chapter 2. Section 4 of the HVMFS 2019:25 states that *"The Water Authority shall classify the physicochemical quality factor special pollutants [...] to moderate status or potential if the value in Table 1 of Annex II and Table 1 of Annex 5 for any substance is exceeded at any for YTV that the presence is representative of monitoring station."* Thus, an overrun at a station is sufficient to assess 'moderate' status. In this case, the County Administrative Board estimates that the overrun occurred twice in 2020 (SRK stations L2 and L3) and once in 2021 (municipal monitoring station YS1), a total of 3 overruns.

Comment on paragraph 17, Act Annex 72: Chemical status of mercury is nationally assessed as 'not good' on the grounds that mercury is judged to be everywhere exceeding. There is no limit value for mercury in water other than the regulation's (HVMFS 2019:25) limit value for maximum permissible content. There are no limit values to compare annual averages based on mercury levels in water. The company presents figures for annual average values for mercury from the years 2020 – 2022, which cannot be assessed against the limit value for the maximum permissible content.

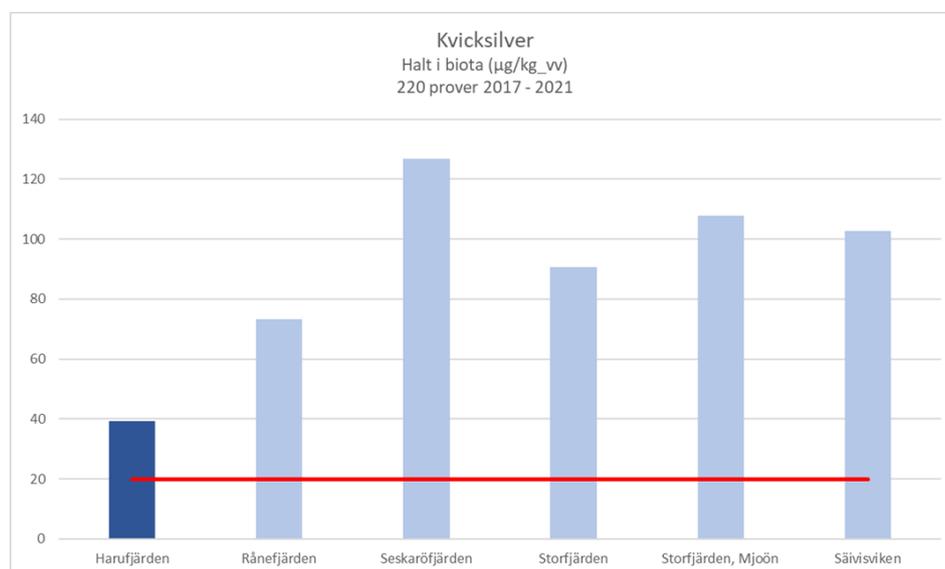


Figure 3: Concentrations in biota (herring) from stations in the Gulf of Bothnia.

The assessment throughout the Gulf of Bothnia shows too high levels of mercury. Measured levels of mercury in biota (Figure 3) are generally higher than the limit value for good chemical status in biota (20 µg/kg wet weight). However, it should be emphasized that there are no mercury in biota from the water body Sörbrändöfjärden. Data from Harufjärden (about 20 km East of Sörbrändöfjärden) shows that the average mercury content in herring was 40 µg/kg wet weight (220 samples in total). The limit value is set in 180 out of 220 samples.

2023-03-20

551-11639-2022

Overall, the County Administrative Board assesses that the national status assessment of mercury is strengthened by these data, which show that fish in the Gulf of Bothnia generally have elevated levels of mercury.

Since the chemical status of mercury is assessed to the lowest possible status class in Sörbrändöfjärden, it is the county administrative board's assessment that no further discharges of mercury to the water body are allowed.

B.2.4 Unauthorized status degradation

The company has presented a detailed dilution model and argues that this shows that the release of zinc from the requested business will not contribute to unauthorized status deterioration. However, this becomes irrelevant as the ecological status of special pollutants is already currently assessed as 'moderate' status according to HVMFS 2019:25, which means that new emissions to Sörbrändöfjärden cannot be allowed.

A dilution model can be valuable in cases where a mixing zone needs to be delimited. If this becomes relevant at any stage, it will be important that the company reports the assumptions, input values and possibly other crucial parameters that govern the model result.

C.3 – Noise and vibration.

Based on the company's argument, the County Administrative Board perceives that there are no work operations that should typically give rise to high instantaneous noise levels at night. If so, the County Administrative Board cannot but see that there would be no problem with accepting the County Administrative Board's condition proposal regarding instantaneous noise level of maximum 55 dBA at night. If, on the other hand, the company objects to this, it may be implicitly understood that the instantaneous noise levels at night may exceed 55 dBA. This is not acceptable. With this as a starting point, the County Administrative Board considers it important that the noise condition is combined with an instantaneous value at night according to the authority's condition proposal. Furthermore, it is the attitude and experience of the authority that the type of heavy industry represented by the company may disturb the environment more than what appears in the company's application. The authority has experience of major establishments in Norrbotten and receives many complaints from residents every year regarding noise disturbances in the morning and evening hours and therefore considers it even more justified that the night period be set at 22:00-07:00. The County Administrative Board maintains its position.

(County Administrative Board, condition 4). *Noise emitted by operations during operation, including traffic in the field of activity, must not give rise to a higher equivalent outdoor noise level in residential premises than:*

50 dB(A) monday-friday (07.00–18.00)

40 dB(A) at night (22.00-07.00) 45

dB(A) other times

The instantaneous noise level at homes at night (10 p.m. to 7 a.m.) must not exceed 55 dB(A).

The specified values shall be checked by measurement at the noise sources (near-field measurement) and calculations at the dwellings concerned. Inspection shall take place as soon as the installation has been put into operation, or as soon as there have been changes in operations that may result in more than insignificant increases in noise levels and when the supervisory authority otherwise considers that control is warranted.

C.4 – Reindeer husbandry including delegation C.7 regarding measures and precautions;

The County Administrative Board considers that the company's conditions for only consulting with Gällivare Sami village are not sufficient. As the company's condition proposal is designed, there is no possibility of influencing the schedule if there are different views on the issue of the impact on reindeer husbandry. Since the county administrative board has the task of bringing actions and safeguarding environmental and other public interests, it is both reasonable and justified that the consultation also takes place with the authority and that the condition is combined with a delegation to the supervisory authority to ensure that the necessary measures and precautions can be decided upon if necessary to minimize any disruption to reindeer husbandry. The County Administrative Board maintains its proposal for conditions and its accompanying delegation.

(County Administrative Board, condition 5). Before the construction work begins, the company must carry out consultations with Gällivare Sami village and the supervisory authority on the schedule for the implementation of the construction works and when particularly disruptive work steps are planned to be performed.

(County Board) The Land and Environment Court will, pursuant to Chapter 22, transfer the Land and Environment Court. Section 25, third paragraph, of the Environmental Code to the supervisory authority to issue additional conditions that may be needed in the following regards.

b) Decide on the necessary measures and measures of safety to minimise possible disturbance to reindeer husbandry on the basis of the consultation carried out under condition 5.

C.5 - Energy management including delegation C.7 on conditions on reasonable energy management measures

The County Administrative Board considers that the company's terms and conditions regarding energy conservation are too imprecise and that it contains only a minimum of accounting. The County Administrative Board considers that this is not enough and that it does not sufficiently promote the management of energy conservation issues. The Board maintains its proposal for conditions relating to energy conservation, including the proposal for delegation, as the two conditional proposals are linked. The County Administrative Board's terms and conditions proposal is designed to make it clear what framework the supervisory authority can operate within so that it does not go beyond these.

(County Administrative Board, condition 6). The company shall continuously and systematically work with energy efficiency improvements of the business. The company must report its work to the supervisory authority every three years, starting no later than three years after the permit is used, by establishing and thereafter revise an energy management plan. The plan shall set out the energy management measures that are technically feasible, the effects and costs of the measures, the measures the company intends to take and the justification to why the other measures reported are not reasonable. The company shall annually, in connection with the submission of the environmental report to the regulatory authority, report on the past year's work on energy conservation, how the plan is followed and what possible adjustments to the plan that the Company intends to make in the coming year.

(County Administrative Board). The Land and Environment Court, pursuant to Chapter 22. Section 25, third paragraph, of the Environmental Code will allow the supervisory authority to issue additional conditions that may be needed in the following respects.

c) Additional conditions on reasonable energy management measures developed in the framework of the energy management plan under condition 6.

Thus, the County Administrative Board considers that if the energy management plan and the associated action plan and contain relevant information, which the County Administrative Board specifically pointed out in its condition proposal as described above, it is possible for the supervisory authority to decide on balanced conditions.

Furthermore, the County Administrative Board considers that energy issues are so important that the County Administrative Board's proposal for conditions and associated delegation are reasonable and justified with the external situation, with "green " transition that requires a lot of electrical energy combined with current supply, which is now available to stipulate that the energy audit should take place with a denser range than the legal requirement, the Act (2014: 266) on energy audits in large companies, which may be considered an absolute minimum level.

The County Administrative Board believes that with the time interval specified by the County Administrative Board regarding the presentation of the energy management plan and the associated action plan, there will be even more focus on the energy conservation issues that are central to the "green" transition. Furthermore, the County Administrative Board states that in order to ensure that environmentally justified and reasonable measures are implemented, the permit needs to include a delegation to the supervisory authority to prescribe which measures to be taken by the company. Such delegations also existed in practice, see MÖD 2009:17, MÖD 2011:23 and MÖD 2014: 42. In the latter two cases, the delegation was limited to "reasonable measures", in the first the delegation was completely without restriction. The practice has persisted even in recent years. See, for example, the Land and Environment Court's judgment of August 31, 2020 in case M 2578-19 in which the court reversed the lower court's judgment precisely regarding delegation on energy conservation measures.

C.7 – Delegation to conditions on dusting

The County Administrative Board notes that the company states that the planned activities are not considered to give rise to dusting, but it is the authority's opinion that the substances, especially graphite, that are handled are: very dusting-prone. The County Administrative Board believes that there is an obvious risk that dusting may occur. The company should therefore clarify, at the latest at the main hearing, how it intends to limit the generation of dust as far as possible. However, the County Administrative Board considers it justified and necessary for the supervisory authority to receive a delegation with the tools that may be needed to be able to manage the risks of the emergence of dusting.

(County Board) Mark- and the Environmental Court transfers under Chapter 22. Section 25(3) of the Environmental Code provides the supervisory authority with the authority to issue additional conditions that may be necessary in the following respects.

(a) the necessary measures and precautions to reduce dusting;

Contact

Welcome to contact the County Administrative Board for questions by phone 010-225 50 00 or by e-mail norrbotten@lansstyrelsen.se. Enter

the case reference number 11639-2022 in the subject line of e-mail.

Those who participated in the opinion

The decision on the opinion has been made by unit manager Anna-Carin Ohlsson with environmental engineer Mikael Larsson as rapporteur, both units for environmental protection. The County Administrative Board's units for environmental protection and environmental analysis have participated in the preparation of the matter.

This document has been approved digitally and therefore has no signature.

Copy to

Talga AB through contact person Christin Jonasson, christin.jonasson@talgagroup.com, and agents Joel Mårtensson, joel.martensson@msa.se, and Albin Gustafsson, albin.gustafsson@msa.se.

Swedish Environmental Protection Agency, registrator@naturvardsverket.se

Swedish Civil Contingencies Agency (MSB),
registeredor@msb.se

Swedish Agency for Marine and Water Management,

havochvatten@havochvatten.se Luleå Municipality,

lulea.kommun@lulea.se