

**CALIFORNIA ALTERNATIVE ENERGY AND
ADVANCED TRANSPORTATION FINANCING AUTHORITY**

Request to Approve Project for a Sales and Use Tax Exclusion¹

**Fortress North America, LLC
Application No. 21-SM015**

Tuesday, March 16, 2021

Prepared By: *Matthew Jumps, Program Analyst*

SUMMARY

Applicant – Fortress North America, LLC

Location – Rocklin, Placer County

Industry – Fire Retardant Manufacturing

Project – New Fire Retardant Manufacturing Facility (Advanced Manufacturing)

Value of Qualified Property	Estimated Sales and Use Tax Exclusion (“STE”) Amount ²
\$5,094,248	\$433,011

Estimated Net Benefit ³	Dollar Value	Points Earned
Estimated Fiscal Benefits	\$3,203,763	7,399
Estimated Environmental Benefits	N/A	65
Additional Benefits	N/A	120
Total	\$3,203,763	7,584
Estimated Quantifiable Net Benefit	\$2,770,752	

Competitive Criteria Score – 55

Staff Recommendation – Approval

¹ All capitalized terms not defined in this document are defined in the STE Program’s statutes and regulations.

² This amount is calculated based on the average statewide sales tax rate of 8.5%.

³ Applications that earn a Total Score of at least 1,000 points and an Environmental Benefits Score of over 20 points may be recommended for approval. (California Code of Regulations Title 4, Division 13, Section 10033(c)(6).)

THE APPLICANT

Fortress North America, LLC (the “Applicant”), is a Delaware limited liability corporation that formed in 2020. The Applicant is headquartered in Rocklin and is a manufacturer of fire retardant for fighting wildfires.

The major shareholders (10.0% or greater) of the Applicant are:

- Robert Burnham
- Gerald Geissler
- Michael Ashker
- Michael Schnarr
- Compass Minerals America, Inc.

The company officers of the Applicant are:

- Robert Burnham, Chief Executive Officer
- Gerald Geissler, President, Director Product Development and Testing
- Michael Ashker, Chief Financial Officer, Head of Corporate Strategy and Business Development
- Dennis Hulbert, Director, Base Operations & Construction
- Michael Schnarr, Director, Supply Chain Operations
- Joseph McLellan, PhD, Director, Research & Development
- Erin Fox, Chief Administrative Officer
- Jim Marsh, Director of Environmental and Watershed Science
- Bryan Carr, Vice President of Infrastructure and Operations
- Travis Marsh, Vice President of Infrastructure and Operations
- Jenny Hood, Vice President, Supply Chain, Compass Minerals
- Dustin Knoche, Director of Logistics Operations, Compass Minerals

THE PROJECT

Fortress North America, LLC, is requesting an STE award to build a new fire retardant manufacturing facility located in Rocklin (the “Project”). According to the Applicant, the Project will produce a new commercial-grade magnesium-chloride-based long-term fire retardant. The fire retardant will be designed for aerial applications to fight wildfires and for preventative ground treatments for commercial and residential use.

The Applicant states that the aerial formulation of the fire retardant has been placed on the U.S. Forest Service qualified products list to be used in fighting wildfires. The Applicant explains that the Project will advance the industry standard for wildfire fire retardant production by utilizing advanced information technologies to automate the manufacturing process and produce a product

with less waste and less harmful effects to the environment. The Applicant also explains that the Project will use polymers and advanced ingredients to make the new fire retardant both stable for use in aerial drops and biodegradable, making it less toxic and harmful to the environment, including for aquatic ecosystems and air quality. According to the Applicant, the magnesium chloride-based formula also will require a less energy and water-intensive manufacturing process than the industry standard ammonium phosphates formula.

ANTICIPATED COSTS OF QUALIFIED PROPERTY

The anticipated Qualified Property purchases are listed below:

Manufacturing Plant Materials (silos, oven, conveyors, loading and storage equipment, foundation, tanks)	\$3,200,000
Large-Scale Shearing Equipment	\$1,680,000
Research and Development Equipment	\$40,000
Shearing Equipment	\$174,248
Total	<u>\$5,094,248</u>

Note: The Qualified Property purchases reported in the Application and shown here in staff's report are estimated costs. At the termination of the Regulatory Agreement, a finalized Project equipment list will be prepared detailing the value of the Project equipment actually acquired, and the estimated tax benefit realized pursuant to Revenue and Tax Code Section 6010.8. Variance from the costs shown in the Application and in this report may occur prior to the closing due to increased costs of certain components of the Project over original estimates, and other reasons. In addition, those costs may vary after closing due to increased costs, as well as common design and equipment modifications during construction, differences in equipment due to future changes in statute or regulation, or for other reasons.

TIMELINE

According to the Applicant, it has entered into a long-term lease at a commercial property for the site of the Facility. The Applicant states it is currently in the designing and engineering phase and estimates the completion of the Facility in the first or second quarter of 2022, after which production will begin.

STATUS OF PERMITS/OTHER REQUIRED APPROVALS

According to the Applicant, the Project will require permits from Placer County's Department of Public Works and Department of Environmental Health and the Placer County Water Agency, as well as grading, drainage, and building permits. The Applicant expects to have all necessary permits by June 2021.

COMPETITIVE CRITERIA SCORE

In the event that the Applications received by CAEATFA requesting \$2 million or less in STE by the deadline for a particular Board meeting represent STE in excess of the \$20 million set-aside for that calendar year, the Applications submitted for that particular Board meeting will be reviewed and presented to the CAEATFA Board for approval in the order in which they are ranked based on Competitive Criteria.

The Applicant received 55 Competitive Criteria points as follows:

1. **Environmental Benefits (0 of 100 points)**. The Applicant’s Project did not earn any environmental benefits points, as calculated pursuant to the method for calculating points for environmental benefits for Advanced Transportation, Alternative Source, and Recycled Resource Extraction Applications in Section 10033(c)(4). Therefore, no points are awarded.
2. **Unemployment (0 of 50 points)**. The Applicant’s Project is located in Placer County, which has an average annual unemployment rate of 6.7%.⁴ When compared to the statewide average annual unemployment rate of 9.1%, the Project location earned the Applicant zero points.
3. **Job Creation (40 of 75 points)**. The Applicant anticipates the Project will support a total of 25 production-related jobs at its Facility. CAEATFA estimates that approximately 1.73 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 40 points.
4. **California Headquarters (15 of 15 points)**. The Applicant has a California Corporate Headquarters, and, therefore, 15 points are awarded.
5. **Natural Disaster Relief (0 of 50 points)**. The Project is not to rebuild or relocate the Applicant’s Facility due to a fire, flood, storm, or earthquake identified in a state of emergency proclaimed by the Governor within two years of the time of application, and, therefore, zero points are awarded.
6. **Eligibility for Manufacturing and Research and Development Equipment Exemption (0 of 50 points)**. The Applicant is eligible to use one or more of the exemptions established pursuant to Section 6377.1 of the Revenue and Taxation Code, and, therefore, zero points are awarded.

⁴ Unemployment rates are based on data available in October 2020.

PROJECT EVALUATION

PROJECT BENEFITS

The Project received a Total Score of 7,584 points, which exceeds the required 1,000-point threshold, and a total Environmental Benefits Score of 65 points, which exceeds the 20-point threshold.

- A. **Fiscal Benefits (7,399 points)**. The net present value of the total fiscal benefits over the lifetime of the Qualified Property is derived from the Applicant's sales and use taxes, personal income taxes paid by the firm's employees, firm taxes on profits, property taxes, and other indirect fiscal benefits of the Applicant. The total fiscal benefits amount to \$3,203,763, resulting in a Fiscal Benefits score of 7,399.

- B. **Environmental Benefits (65 points)**. The Project earned an Environmental Benefits Score of 65. The Applicant received points in the following categories:
 1. **Energy Consumption (30 of 30 points)**. The Applicant anticipates the Project will result in an 80% reduction in energy consumption compared to the industry standard manufacturing process. According to the Applicant, the current industry standard ammonium-phosphate-based fire retardant uses an energy-intensive combustive process to manufacture, including fossil fuels. The Applicant states its magnesium-chloride-based process uses natural exposure to the wind and sun for brine evaporation and a less energy-intensive manufacturing process.
 2. **Water Use (15 of 30 points)**. The Applicant anticipates the Project will result in a 15% reduction in water use relative to the industry standard manufacturing process by using a less water-intensive manufacturing process.
 3. **Solid Waste (5 of 30 points)**. The Applicant anticipates the Project will result in a 5% reduction in the solid waste produced relative to the industry standard manufacturing process. The Applicant explains that its magnesium chloride retardant generates less waste to be deposited in landfills, such as the sludge byproduct of the industry standard manufacturing process.
 4. **Hazardous Waste (5 of 30 points)**. The Applicant anticipates the Project will result in a 5% reduction in hazardous waste produced relative to the industry standard manufacturing process. The Applicant states its use of magnesium chloride generates less waste that results in harmful effects to the environment than the byproducts of the industry standard manufacturing process, such as radioactive wet stacks of phosphogypsum.
 5. **Other Pollutants (10 of 30 points)**. The Applicant anticipates the Project will result in a 10% reduction in other pollutants produced relative to the industry

standard manufacturing process. The Applicant explains its magnesium chloride retardant produces fewer pollutants compared to standard fire-retardant manufacturers, such as radon from wet stacks of phosphogypsum and other byproducts and emissions that are eliminated from its manufacturing process.

C. Additional Benefits (120 points). Applicants may earn additional points for their Total Score. The Applicant received 120 additional points.

- 1. Production Jobs (40 of 75 points).** The Applicant anticipates the Project will support a total of 25 production-related jobs at its Facility. CAEATFA’s evaluation methodology estimates that approximately 1.73 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 40 points.
- 2. Construction Jobs (30 of 75 points).** The Applicant anticipates the Project will support a total of 10 construction jobs at its Facility. CAEATFA estimates that approximately 0.69 of these jobs will be attributable to a marginal increase in jobs created due to the STE. Based on the amount of STE per estimated number of jobs created, the Applicant earned 30 points.
- 3. Unemployment (0 of 50 points).** The Applicant’s Project is located in Placer County, which has an average annual unemployment rate of 6.7%.⁵ When compared to the statewide average annual unemployment rate of 9.1%, the Project location earned the Applicant zero points.
- 4. Research and Development Facilities (25 of 25 points).** The Applicant has verified that it has a facility located in California that performs research and development functions related to fire retardant manufacturing.
- 5. Benefits and Fringe Benefits (25 of 25 Points).** The Applicant states it provides medical, health, dental, vision, bonuses, pension plans, profit sharing, dependent care and assistance reimbursement, and paid leave to its employees, earning the Applicant 25 points.

LEGAL QUESTIONNAIRE

Staff reviewed the Applicant’s responses to the questions contained in the Legal Status portion of the Application. The responses did not disclose any information that raises questions concerning the financial viability or legal integrity of this Applicant.

⁵ Unemployment rates are based on data available in October 2020.

CAEATFA FEES

In accordance with CAEATFA Regulations,⁶ the Applicant has paid CAEATFA an Application Fee of \$2,547.12, and will pay CAEATFA an Administrative Fee of up to \$20,376.99.

RECOMMENDATION

Staff recommends the approval of Resolution No. 21-SM015 for Fortress North America, LLC's purchase of qualifying tangible personal property in an amount not to exceed \$5,094,248, anticipated to result in an approximate STE value of \$433,011.

⁶ California Code of Regulations Title 4, Division 13, Section 10036.

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A
REGULATORY AGREEMENT WITH FORTRESS NORTH AMERICA, LLC**

March 16, 2021

WHEREAS, the California Alternative Energy and Advanced Transportation Financing Authority (the “Authority”) has received the Application of **Fortress North America, LLC** (the “Applicant”), for financial assistance under the Sales and Use Tax Exclusion Program, as established in Public Resources Code Section 26011.8; and

WHEREAS, the Applicant qualifies as a Participating Party under Public Resources Code Section 26011.8 and Revenue and Taxation Code Section 6010.8; and

WHEREAS, the Applicant’s qualifying tangible personal property meets the requirements of a Project under Public Resources Code Section 26011.8 and Revenue and Taxation Code Section 6010.8 (the “Project”); and

WHEREAS, after the Authority approves an Application, the Authority enters into a Regulatory Agreement, as described in Authority Regulations Section 10030(a), with the Applicant for the Project; and

WHEREAS, the Applicant has estimated the Project has an estimated cost not to exceed \$5,094,248 over a period of three years; and

WHEREAS, the Applicant asserts that this form of financial assistance will enable it to avail itself of the benefits of an exclusion from sales and use taxes relative to the Project pursuant to Revenue and Taxation Code Section 6010.8; and

WHEREAS, the approval of the terms of the Regulatory Agreement and authority for the Executive Director or Chair of the Authority to execute the necessary documents to effectuate the Regulatory Agreement is now sought;

NOW, THEREFORE, BE IT RESOLVED by the California Alternative Energy and Advanced Transportation Financing Authority, as follows:

Section 1. The Regulatory Agreement includes a Project within the meaning of Public Resources Code Section 26003(a)(8)(B).

Section 2. The Regulatory Agreement constitutes financial assistance within the meaning of Public Resources Code Section 26003(a)(6).

Section 3. The Applicant is a participating party within the meaning of Public Resources Code Section 26003(a)(7).

Section 4. The Executive Director or Chair of the Authority (the “Authorized Signatories”) are hereby authorized for and on behalf of the Authority to approve any changes to the Project as the Authorized Signatories deem appropriate, provided that the amount of the

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qualifying tangible personal property to be purchased for the Project may not be increased above the amount approved by the Authority.

Section 5. The proposed form of the Regulatory Agreement between the Applicant and the Authority, as filed with the Authority prior to this public meeting, is hereby approved. For, on behalf and in the name of the Authority, the Authorized Signatories are hereby authorized and directed to execute, acknowledge, and deliver to the Applicant the Regulatory Agreement in substantially the form filed with or approved by the Authority.

The Regulatory Agreement may contain insertions, deletions or changes as the Authorized Signatories executing the Regulatory Agreement may require or approve, including particular information inserted in substantial conformance with the staff summary and in the Application to the Authority. The approval of the Regulatory Agreement will be conclusively evidenced by the execution and delivery of the final Regulatory Agreement.

The Authority understands and agrees that, pursuant to the terms of the Regulatory Agreement, the obligations of the Applicant, under some circumstances, may be carried out or assumed by a successor or assignee entity, or by an affiliate of the Applicant.

Section 6. Each of the Authorized Signatories, acting alone, is hereby authorized and directed to do any and all ministerial acts, including, without limitation, the execution and delivery of any and all documents and certificates they may deem necessary or advisable to consummate the Regulatory Agreement and otherwise effectuate the purposes of this Resolution.

Section 7. The Applicant shall ensure that all of the qualifying tangible personal property acquired as part of the Project that is listed in the semi-annual reports provided to the Authority pursuant to the Regulatory Agreement will be installed, maintained and operated in compliance with all applicable local, state and federal laws.

Section 8. The Regulatory Agreement shall only apply to qualifying tangible personal property acquired as part of the Project that the Applicant certifies will be installed, maintained and operated at facilities physically located within the State of California.

Section 9. Neither the adoption by the Authority of this Resolution for the Applicant nor the Regulatory Agreement may be referred to in any application before any governmental agency as evidence of the feasibility, practicality or suitability of the Project and may not be referred to in any application for any required permission or authority to acquire, construct or operate the Project.

Section 10. This Resolution is effective immediately and will remain in full force and effect unless the Regulatory Agreement is not executed within thirty (30) days of the date of this Resolution. The Executive Director may extend the thirty (30) days if necessary.