



FLORIDA DEPARTMENT OF Environmental Protection

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July 10, 2019

Sent by Electronic Mail – Document Access Verification Requested

Daniel Pellowitz
Solid Waste Authority of Palm Beach County
7501 North Jog Road
West Palm Beach, Florida 33412
dpellowitz@swa.org

RE: Palm Beach County Renewable Energy Park
Modification to Conditions of Certification
DEP Case Number PA84-20P
OGC Case Number 19-0240

FINAL ORDER MODIFYING CONDITIONS OF CERTIFICATION

Dear Mr. Pellowitz:

The Florida Siting Board issued a Site Certification to the Solid Waste Authority (SWA) for the construction and operation of the Palm Beach County Renewable Energy Park (PBCREP) Facility 1 and Facility 2 expansion on July 29, 1986 and September 1, 2011, respectively, in Palm Beach County. The Department of Environmental Protection (Department) has modified the Conditions of Certification (Conditions) for PBCREP by Final Order on fifteen other occasions.

Pursuant to §403.516(1)(c), Florida Statutes (F.S.), the Department has reviewed SWA's petition for modification, dated March 7, 2019, to PBCREP's Site Certification Application to allow for the bottom ash residue (produced by the two waste-to-energy facilities) to be recycled and beneficially reused, pursuant to §403.7045(5), F.S., by sending the residue off-site to be blended with aggregate for use in concrete and asphalt pavement.

On May 24, 2019, all parties to the certification proceeding were provided notice of the Department's intent to modify the Conditions for PBCREP. On May 28, 2019, notice of the

Department's intent to modify the Conditions for PBCREP was also published in the Florida Administrative Register (FAR).

Pursuant to §403.516, F.S., and Rule 62-17.211, Florida Administrative Code (F.A.C.), all parties to the certification proceeding have 45 days from the issuance of notice in which to file a written objection to the modification. Pursuant to §403.516, F.S., and Rule 62-17.211, F.A.C., any person who is not already a party to the certification proceeding and whose substantial interests will be affected by the requested modification has 30 days from the date of publication of the public notice in the FAR to object in writing. Failure to act within the timeframe constitutes a waiver of the right to become a party.

These timeframes have expired, and the Department did not receive any objections to the modification. The Department received non-substantive comments on June 12, 2019, from SWA via email regarding the proposed Conditions. Summaries of each SWA comment are listed below followed by the Department's response:

- 1) **Applicant Comment:** Page viii, Attachment Section – “Attachment D – Ground Water Monitoring Requirement(s)” is listed as an attachment, but is not included as part of the document.

Department Response: Groundwater monitoring requirements are specifically addressed in the Conditions. Attachment D should be labeled as “Reserved”. This will be reflected in the final Conditions.

- 2) **Applicant Comment:** Page 6, Section A, IV. DEFINITIONS – “PBCERM” has been stricken. However, this term is used throughout section XXXVI. STORAGE TANK SYSTEMS, page 31.

Department Response: This is a scrivener's error. PBCERM will not be stricken from Section A, IV. DEFINITIONS.

- 3) **Applicant Comment:** The following language was deleted from Page 9, Section A., VII. NOTIFICATION: “This does not include routine reports/notification submitted as a specific requirement of a federal air construction or air operation permit”. Deletion of this language leads to confusion as to when SWA must notify the SCO and the SED.

Department Response: The above referenced language will not be stricken from Section A, VII. NOTIFICATION.

- 4) **Applicant Comment:** Page 16, Section A, XIX AGENCY ADDRESSES FOR POST-CERTIFICATION SUBMITALS AND NOTICES. The listed agencies in this condition are not consistent with agencies that received a copy of the Notice of Intent. For example, Palm Beach County contact information is not listed in Section A, XIX, however, a copy of the Notice of Intent was sent to the County attorney. Please clarify.

Department Response: Section A, XIX., includes a list of contacts for those reviewing agencies that have requirements included in the Conditions of Certification. This is for the convenience of the Licensee. The Department's Notice of Intent and Final Order are sent to parties to the certification which may, or may not, be the same as those agencies listed in

Section A, XIX. However, in this case the Palm Beach County attorney was inadvertently included in the distribution list for the Notice of Intent that was issued on May 24, 2019.

- 5) **Applicant Comment:** Page 37, Section B., I. DEPARTMENT OF ENVIRONMENTAL PROTECTION, D. *Water Quality evaluation monitoring and Prevention Measures*, 1. – The word “indicator” was deleted from the first sentence. The language should be modified to be consistent with Rule 62-701.510(6), F.A.C.

Department Response: The Department agrees. Section B, I. DEPARTMENT OF ENVIRONMENTAL PROTECTION, D. *Water Quality Evaluation Monitoring and Prevention Measures*, 1., will be revised as follows (additions shown as underlined) in the final Conditions to reflect the specific language in Rule 62-701.510(6), F.A.C.:

D. Water Quality Evaluation Monitoring and Prevention Measures

1. Pursuant to Rule 62-701.510(6), F.A.C., if monitoring parameters are detected in detection wells at concentrations significantly above background water quality, or that are at levels above the Department's water quality standards or criteria specified in Chapter 62-520, F.A.C., the Licensee may resample the wells within 30 days after the Licensee's receipt of the data, to confirm the data. The Department's SED Office, Waste Cleanup Section, must be notified 7 days prior to any confirmatory resampling event at this Site. Should the Licensee choose not to resample, the Department will consider the water quality analysis as representative of current ground water conditions at the facility. If the data is confirmed, or if the Licensee chooses not to resample, the Licensee shall notify the Department in writing within 14 days of this finding. The Licensee, upon notification to the Department in writing within 14 days of the finding of the above sampling or resampling event, may also choose to demonstrate that a source other than the solid waste disposal unit is expected to be the cause of the observed detections in the water quality analysis. A report documenting this demonstration must be signed and sealed by a Florida registered professional geologist or professional engineer and submitted to the Department within 60 days of the demonstration notification. If a successful demonstration is made and approved by the Department, the Licensee may continue detection monitoring as specified in this section. If the Department determines that a successful demonstration has not been made within 60 days after the Licensee submits the demonstration report, or the Licensee chooses not to pursue such demonstration, then upon notification by the Department, the Licensee shall initiate evaluation monitoring as follows:

a. through c. – No Changes

- 6) **Applicant Comment:** Page[s] 48, [50, 54, and 57] Section B, I. DEPARTMENT OF ENVIRONMENTAL PROTECTION, R. *Biosolids Treatment Facility Conditions*, 2.a.- the acronym “BTF” needs to be properly defined in the section (i.e., keep “biosolids treatment facility” language or add to the definition section).

Department Response: The acronym “BTF” is being replaced with “Biosolids treatment facility” in the final Conditions.

- 7) **Applicant Comment:** Page 61, Section B, III. SOUTH FLORIDA WATER MANAGEMENT DISTRICT, A., h, - The following language and rule citation has been

omitted: "...and 40E-3, F.A.C., as applicable, prior to the commencement of the subject construction, operation and/or maintenance activity covered thereunder. [Rule 62-17.191, F.A.C.]”

Department Response: This is a scrivener’s error and will be corrected in the final Conditions.

- 8) **Applicant Comment:** Page 78, Section B, VII. CITY OF WEST PALM BEACH, B. 13. – replace “Department” with “DEP” for consistency.

Department Response: “Department” and “DEP” are defined in Section A, IV. Definitions as the Florida Department of Environmental Protection, and both appear throughout the document.

- 9) **Applicant Comment:** Page 81, Section B. VIII. DEPARTMENT OF ECONOMIC OPPRTUNITY – “... becoming operational” has been omitted from the condition.

Department Response: This is a scrivener’s error and will be corrected in the final Conditions.

- 10) **Applicant Comment:** Page 83, Attachment A: Map – there are two maps depicting site delineation. Please delete the 1st figure and keep the 2nd map.

Department Response: The outdated, duplicative map will be removed from attachment A.

- 11) **Applicant Comment:** Page 94, Attachment J – ASH BENEFICIAL USE PLAN – the numbering of item 7. b. is missing number 3. The remaining items will need to be renumbered accordingly.

Department Response: This is a scrivener’s error and will be corrected in the final Conditions.

The final version of the modified Conditions (including attachments) can be viewed and obtained from the following website:

http://publicfiles.dep.state.fl.us/Siting/Outgoing/PBC_SWA/Mod_P_Ash_Reuse/Conditions/2019_07_10_Conditions_Mod_P.pdf.

Copies of the Conditions and/or attachments may also be obtained by contacting the Department of Environmental Protection, Siting Coordination Office, 2600 Blair Stone Road, M.S. 5500, Tallahassee, Florida 32399-2400, (850) 717-9000.

Any party to this Order has a right to seek judicial review of it pursuant to §120.68, F.S. by filing a Notice of Appeal, pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department of Environmental Protection in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000, and by filing a copy of the Notice of Appeal, accompanied by the applicable filing fees, with the appropriate District Court of Appeal. The Notice of Appeal must be filed within 30 days from the date this Order is filed with the Clerk of the Department of Environmental Protection.

Sincerely,

Cindy Mulkey
Administrator,
Siting Coordination Office

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FILING AND ACKNOWLEDGMENT
FILED, on this date, pursuant to §120.52
Florida Statutes, with the designated
Department Clerk, receipt of which is
hereby acknowledged.

Clerk

Date

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