STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
PUBLIC NOTICE OF INTENT TO ISSUE CONSTRUCTION PERMIT

The Department of Environmental Protection gives notice of its intent to issue a permit to P & S Paving, Inc., 3701 Olsen Drive, Daytona Beach, Florida, 32124, to construct a replacement drum mix asphalt plant which is a source of air emissions. The facility is located at 3701 Olsen Drive, Daytona Beach, Volusia County, Florida. The Department has assigned File Number 7770001-003-AC to the project.

The Department will issue the permit with the attached conditions unless a response received in accordance with the following procedures results in a different decision or significant change of terms or conditions.

The Department will accept written comments concerning the proposed permit issuance action for a period of 14 days from the date of publication of "PUBLIC NOTICE OF INTENT TO ISSUE CONSTRUCTION PERMIT." Written comments should be provided to the District office at 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in the proposed agency action, the Department shall revise the proposed permit and require, if applicable, another Public Notice.

The Department will issue the permit with the attached conditions unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57 Florida Statutes (F.S.), before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000. Petitions filed by the permit applicant or any of the parties listed below must be filed within 14 days of receipt of this notice of intent. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3) of the Florida Statutes must be filed within 14 days of publication of the public notice or within 14 days of receipt of this notice of intent, whichever occurs first. Under Section 120.60(3), F.S., however, any person who asked the Department for notice of agency action may file a petition within 14 days of receipt of that notice, regardless of the date of publication. A petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57 F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205 of the Florida Administrative Code (F.A.C.).

A petition that disputes the material facts on which the Department's action is based must contain the following information:

(a) The name and address of each agency affected and each agency's file or identification number, if known;
(b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
(c) A statement of how and when petitioner received notice of the agency action or proposed action;
(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
(e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and
(g) A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts upon which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301 F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation under Section 120.573 of the Florida Statutes is not available in this proceeding.

A complete project file is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at: the Department of Environmental Protection, 3319 Maguire Boulevard, Suite 232, Orlando, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

CERTIFIED MAIL
7099 3400 0010 0525 5068

In the Matter of an
Application for Permit by:
P & S Paving, Inc.
3701 Olsen Drive
Daytona Beach, Florida 32124
Attention: Tim Phillips,
President

Volusia County - AP
Replacement Drum Mix Asphalt Plant
DEP File Number 7770001-003-AC

INTENT TO ISSUE

The Department of Environmental Protection (Department) gives notice of its intent to issue a permit (copy enclosed) for the proposed project as detailed in the application specified above. The Central District is issuing this Intent to Issue for the reasons stated below.

The applicant, P & S Paving, Inc., applied on November 2, 2000, to the Department for a permit to construct a replacement drum mix asphalt plant which is a source of air emissions. This source is located at 3701 Olsen Drive, Daytona Beach, Volusia County, Florida. The Department has assigned File Number 7770001-003-AC to the project.

The Department has permitting jurisdiction under Section 403 Florida Statutes (F.S.) and Chapter 62-4.210 and Chapter 62-210.300 Florida Administrative Code (F.A.C.). The project is not exempt from permitting procedures. The Department has determined that a construction permit is required for the proposed work.

Pursuant to Section 403.815, F.S. and DEP Rule 62-103.150, F.A.C., you (the applicant) are required to publish at your own expense the enclosed Notice of Intent to Issue Permit. The Notice shall be published one time only within 30 days, in the legal ad section of a newspaper of general circulation in the area affected. For the purpose of this rule, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place. Where there is more than one newspaper of general circulation in the county, the newspaper used must be one with significant circulation in the area that may be affected by the permit. If you are uncertain that a newspaper meets these requirements, please contact the Department at the address or telephone number listed below. The applicant shall provide proof of publication to the Department, at 3319 Maguire Boulevard, Suite 232, Orlando, FL 32803-3767 within seven days of publication. Failure to publish the notice and provide proof of publication within the allotted time may result in the denial of the permit.

The Department will issue the permit with the attached conditions unless a response is received in accordance with the following procedures results in a different decision or significant change of terms or conditions.

The Department will accept written comments concerning the proposed permit issuance action for a period of 14 days from the date of publication of "PUBLIC NOTICE OF INTENT TO ISSUE CONSTRUCTION PERMIT." Written comments should be provided to the Central District office at 3319 Maguire Boulevard, Orlando, Florida 32803. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in the proposed agency action, the Department shall revise the proposed permit and require, if applicable, another Public Notice.

The Department will issue the permit with the attached conditions unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57 F.S., before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel to the Department at 3900 Commonwealth Boulevard, Mail Stop 35, Tallahassee, Florida, 32399-3000. Petitions filed by the permit applicant or any of the parties listed below must be filed within 14 days of receipt of this notice of intent. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3) of the Florida Statutes must be filed within 14 days of publication of the public notice or within 14 days of receipt of this notice of intent, whichever occurs first. Under Section 120.60(3), F.S., however, any person who asked the Department for notice of agency action may file a petition within 14 days of receipt of that notice, regardless of the date of publication. A petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205 of the Florida Administrative Code.

A petition that disputes the material facts on which the Department's action is based must contain the following information:

(a) The name and address of each agency affected and each agency's file or identification number, if known;
(b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;
(c) A statement of how and when petitioner received notice of the agency action or proposed action;
(d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
(e) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and

(g) A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material upon which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301, F.A.C.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation under Section 120.573 of the Florida Statutes is not available in this proceeding.

In addition to the above, a person subject to regulation has a right to apply for a variance from or waiver of the requirements of particular rules, on certain conditions, under Section 120.542 F.S. The relief provided by this state statute applies only to state rules, not statutes, and not to any federal regulatory requirements. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have in relation to the action proposed in this notice of intent.

The application for a variance or waiver is made by filing a petition with the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000. The petition must specify the following information:

(a) The name, address, and telephone number of the petitioner;
(b) The name, address, and telephone number of the attorney or qualified representative of the petitioner, if any;
(c) Each rule or portion of a rule from which a variance or waiver is requested;
(d) The citation to the statute underlying (implemented by) the rule identified in (c) above;
(e) The type of action requested;
(f) The specific facts that would justify a variance or waiver for the petitioner;
(g) The reason why the variance or waiver would serve the purposes of the underlying statute (implemented by the rule); and
(h) A statement whether the variance or waiver is permanent or temporary and, if temporary, a statement of the dates showing the duration of the variance or waiver requested.

The Department will grant a variance or waiver when the petition demonstrates both that the application of the rule would create a substantial hardship or violate principles of fairness, as each of those terms is defined in Section 120.542(2) of the Florida Statutes, and that the purpose of the underlying statute will be or has been achieved by other means by the petitioner.

Persons subject to regulation pursuant to any federally delegated or approved air program should be aware that Florida is specifically not authorized to issue variances or waivers from any requirements of any such federally delegated or approved program. The requirements of the program remain fully enforceable by the Administrator of Environmental Protection Agency and by any person under the Clean Air Act unless and until the Administrator separately approves any variance or waiver in accordance with the procedures of the federal program.

Executed in Orlando, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

_____

L.T. Kozlov, P.E.
Program Administrator
Air Resources Management
3319 Maguire Boulevard
Suite 232
Orlando, Florida 32803-3767
(407) 894-7555

DATE: _____

FILING AND ACKNOWLEDGEMENT FILED, on this date, pursuant to Section 120.52(7), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

_____ _____
Clerk Date

CERTIFICATE OF SERVICE

This is to certify that this INTENT TO ISSUE and all copies were mailed before the close of business on _____ to the listed persons by _____.

LTK/dl

Enclosures: Draft Permit
Notice of Intent

Copies furnished to:
Kim Thompson, P.E., Southern Environmental Sciences, Inc.

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