Florida Department of
Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

August 27, 2009

Sent by Electronic Mail – Received Receipt Requested

Mr. Neil Smith, V.P. of Sugar Processing Operations
United States Sugar Corporation
111 Ponce DeLeon Avenue
Clewiston, FL 33440

Re: Exemption from the Requirement to Obtain an Air Construction Permit
United States Sugar Corporation, Clewiston Sugar Mill and Refinery
Facility ID No. 0510003
Project No. 0510003-046-AC
Temporary Trial Burn of Sweet Sorghum

Dear Mr. Smith:

On August 17, 2009, U.S. Sugar Corporation submitted a request to conduct a trial burn of sweet sorghum in existing Boiler 8 (EU-028) at the Clewiston Sugar Mill and Refinery. The existing mill is located in Hendry County at the intersection of W.C. Owens Avenue and State Road 832 in Clewiston, Florida. During the trial burn, up to 4000 tons of sweet sorghum will be fired to evaluate the capabilities of the existing equipment to handle, convey and fire the trial fuel. Boiler 8 includes the following air pollution control equipment: wet sand separators to remove sand and heavy particulates from the flue gas prior to the induced draft fan; an electrostatic precipitator (ESP) to remove fine particulate matter from the flue gas; and a selective non-catalytic reduction (SNCR) system to reduce nitrogen oxide emissions (NO_X). Boiler 8 also includes continuous emissions monitoring systems (CEMS) for carbon monoxide (CO) and NO_X emissions.

Determination: A complete review of this project is summarized in the attached Technical Evaluation. Pursuant to Rule 62.4.040(1)(b) of the Florida Administrative Code (F.A.C.) and for the reasons stated in the Technical Evaluation, the Bureau of Air Regulation determines that the activity will not emit air pollutants, "… in sufficient quantity, with respect to its character, quality or content, and the circumstances surrounding its location, use and operation, as to contribute significantly to the pollution problems within the State, so that the regulation thereof is not reasonably justified." Therefore, the temporary project is exempt from the requirement to obtain an air construction permit. This determination may be revoked if the proposed activity is substantially modified or the basis for the exemption is determined to be materially incorrect. A copy of this letter shall be maintained at the site of the proposed activity. This permitting decision is made pursuant to Chapter 403, Florida Statutes.

Permitting Authority: Applications for air construction permits are subject to review in accordance with the provisions of Chapter 403, Florida Statutes (F.S.) and Chapters 62-4, 62-210 and 62-F.A.C. The Permitting Authority responsible for making a permit determination for this project is the Bureau of Air Regulation in the Department of Environmental Protection's Division of Air Resource Management. The Permitting Authority's physical address is: 111 South Magnolia Drive, Suite #4, Tallahassee, Florida 32301. The Permitting Authority's mailing address is: 2600 Blair Stone Road, MS #5505, Tallahassee, Florida 32399-2400. The Permitting Authority's telephone number is 850/488-0114.

Petitions: A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed with (received by) the agency clerk in the Office of General Counsel of the Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000 (Telephone: 850/245-2241). Petitions must be filed within 21 days of receipt of this exemption from air permitting requirements. 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 (in a proceeding initiated by another party) will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, F.A.C.

A petition that disputes the material facts on which the Permitting Authority'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 when and how each petitioner received notice of the agency action or proposed decision; (d) A statement of all disputed issues of material fact. If there are none, the petition must so state; (e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action; (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action including an explanation of how the alleged facts relate to the specific rules or statutes; 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 Permitting Authority'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 Permitting Authority's final action may be different from the position taken by it in this permitting action. Persons whose substantial interests will be affected by any such final decision of the Permitting Authority on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation: Mediation is not available in this proceeding.

Effective Date: This permitting decision is final and effective on the date filed with the clerk of the Permitting Authority unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition pursuant to Rule 62-110.106, F.A.C., and the petition conforms to the content requirements of Rules 28-106.201 and 28-106.301, F.A.C. Upon timely filing of a petition or a request for extension of time, this action will not be effective until further order of the Permitting Authority.

Judicial Review: Any party to this permitting decision (order) has the right to seek judicial review of it under Section 120.68, F.S., by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department of Environmental Protection in the Office of General Counsel, Mail Station #35, 3900 Commonwealth Boulevard, 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 must be filed within 30 days after this order is filed with the clerk of the Department.

Executed in Tallahassee, Florida.

Trina L Vielhauer

Trina Vielhauer, Chief
Bureau of Air Regulation

TLV/jfk

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this Exemption from Air Construction Permitting was sent by electronic mail (or a link to these documents made available electronically on a publicly accessible server) with received receipt requested before the close of business on 8/27/09 to the persons listed below.

Mr. Neil Smith, U.S. Sugar (nsmith@ussugar.com)
Mr. Keith Tingberg, U.S. Sugar (ktingberg@ussugar.com)
Mr. David Buff, Golder Associates (dbuff@golder.com)
Mr. Ajaya Satyal, SD Office (ajaya.satyal@dep.state.fl.us)
Ms. Vickie Gibson, DEP BAR Reading File (victoria.gibson@dep.state.fl.us)

Clerk Stamp

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

(Clerk) 8/27/09 (Date)

CONDITIONS OF EXEMPTION

Subject to the following provisions and restrictions, the United States Sugar Company (U.S. Sugar) is temporarily authorized to fire sweet sorghum in accordance with the following conditions.

1. U.S. Sugar shall conduct the trial burn between August 31, 2009 and October 1, 2009. U.S. Sugar may fire up to approximately 4000 tons of sweet sorghum during the temporary trial period.
2. U.S. Sugar shall record the approximate amount of sweet sorghum fired on an hourly basis.
3. U.S. Sugar shall use the existing CEMS to collect CO and NO_X emissions data during the trial burn.
4. U.S. Sugar shall collect a representative sample of sweet sorghum used during the test and determine the proximate, ultimate (including sulfur content) and heat content analyses.
5. No later than 60 days after completing the trial burn, U.S. Sugar shall submit a written report summarizing: the capabilities of the existing equipment to handle, store and fire sweet sorghum; problems encountered during the trial burn; the approximate amounts (tons/hour) of sweet sorghum fired during each day; results of the CO and NO_X emissions while firing sweet sorghum including the steam production rate; results of the proximate, ultimate and heat content analyses of the sweet sorghum sample; and estimated SO_2 emissions based on the actual fuel sulfur content in the sweet sorghum sample.
6. U.S. Sugar shall continue to comply with all existing permit conditions during the trial burn.