

 **LEE COUNTY**
SOUTHWEST FLORIDA
BOARD OF COUNTY COMMISSIONERS

RECEIVED

FEB 09 2007

BUREAU OF AIR REGULATION

Bob Janes
District One

February 8, 2007

A. Brian Bigelow
District Two

Mr. Al Linero, Fl. Dep't. of Environmental Protection
c/o Patty Adams, Air Division
111 S. Magnolia, Suite 23
Tallahassee, FL 32301

Ray Judah
District Three

Tammy Hall
District Four

VIA Overnight Delivery

Frank Mann
District Five

Donald D. Stilwell
County Manager

Subject: Affidavit of Publication of Notice of Intent to Issue PSD -FI-151D

David M. Owen
County Attorney

Dear Mr. Linero:

Diana M. Parker
County Hearing Examiner

Attached please find the subject Affidavit from the Ft. Myers News-Press. I apologize for any confusion on this matter, but we have not previously received the affidavit in the mail from the newspaper. On February 1, 2007 we sent you the actual newspaper column of the NOI. On Friday, 2/2/07 we faxed you a (faxed) copy of the affidavit, but then yesterday, I noticed that that affidavit showed the wrong "published date".

Today, I stopped at the newspaper's office and received an original affidavit with the correct "published date" (i.e., January 25, 2007) shown, along with a letter from the News-Press explaining its error. They also gave me a copy of the original advertisement "Order Confirmation" indicating the correct publishing date. Copies of all of these documents are attached hereto.

Again, I apologize for any confusion regarding this item. If you have any questions, please call me at 239-338-3302.

Sincerely,



Lindsey J. Sampson, Director
Solid Waste Division

Cc: D. Castro, HDR
File, PSD

S:\WTE EXPANSION\DEP CONST SUBMITTALS\DEP PSD PUBLIC NOI AFFDAVIT.DOC

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FEB 09 2007

BUREAU OF AIR REGULATION

Gladys D. Vanderbeck
Legal Advertising Coordinator
The News-Press
2442 Dr. Martin Luther King Jr. Blvd.
Fort Myers, Florida 33901

February 8, 2007

Mr. Sampson
Director of Solid Waste
10500 Buckingham Road
Fort Myers, FL 33905

Dear Mr. Sampson:

In regards to the "Affidavit of Publication" that was issued for your ad number 1154714, that ran on January 25, 2007, did indeed contain the wrong publication date. The ad ran as indicated on the new "Affidavit of Publication" on January 25, 2007 as indicated on the attached "Affidavit of Publication", Confirmation of Publication, and a complete tearsheet showing the ad number and date.

I am sorry for any inconvenience this situation may have caused. I look forward to continuing our busy association with your Lee County Solid Waste Division and The News-Press.

Sincerely,



Gladys D. Vanderbeck
Legal Advertising Coordinator

Attachments

NEWS-PRESS

Published every morning - Daily and Sunday

Fort Myers, Florida

Affidavit of Publication

STATE OF FLORIDA
COUNTY OF LEE

Before the undersigned authority, personally appeared

Kathy Allebach

who on oath says that he/she is the

Legal Assistant

of the News-Press, a

daily newspaper, published at Fort Myers, in Lee County, Florida; that the attached copy of advertisement, being a

Notice of Action

In the matter of

Permit No. PSD-FL-151D

in the court was published in said newspaper in the issues of

January 25, 2007

Affiant further says that the said News-Press is a paper of general circulation daily in Lee, Charlotte, Collier, Glades and Hendry Counties and published at Fort Myers, in said Lee County, Florida and that said newspaper has heretofore been continuously published in said Lee County, Florida, each day, and has been entered as a second class mail matter at the post office in Fort Myers in said Lee County, Florida, for a period of one year next preceding the first publication of the attached copy of the advertisement; and affiant further says that he/she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this

8th day of February, 2007 by

Kathy Allebach

personally known to me or who has produced

as identification, and who did or did not take an oath.

Notary Public

Print Name

My commission expires

Gladys D. Vanderbeck
Commission # DD378967
Expires December 13, 2008
STATE OF FLORIDA Bonded Trust Firm - Insurance, Inc. 800-385-7019

PUBLIC NOTICE OF INTENT TO ISSUE AIR CONSTRUCTION PERMIT
STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Permit No. PSD-FL-151D
DEP File No. 0710119-005-AC
Lee County Resource Recovery Facility
Municipal Waste Combustor Unit 3

The Department of Environmental Protection (Department) gives notice of its intent to issue an Air Construction Permit to Lee County. A third municipal waste combustor and a lime storage site and associated equipment are currently under construction at the existing Lee County Resource Recovery Facility. The purpose of this construction permit is to extend the construction period one calendar year. This permit incorporates all conditions from the latest air construction permit (PSD-FL-151C, 0710119-002-AC) which authorizes construction of Unit 3. The municipal waste combustor unit will not exceed a nominal tonnage capacity of 660 tons per day and maximum heat input of 291.5 million Btu per hour. The facility is located at 10500 Buckingham Road, Fort Myers, Lee County.

The permittee has encountered delays related to construction and the procurement of equipment. The facility has provided details on the progression of construction of Unit 3 and expects the project to be completed no later than December 31, 2007.

The Department has reasonable assurance that the project will not result in significant net emission increases from the unit that would otherwise require a review under the Rules for the Prevention of Significant Deterioration at Paragraph 62-212.400, F.A.C. or 40 CFR 52.21.

The Department will issue the Final Permit, in accordance with the conditions of the Draft Permit, 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 this Public Notice of Intent to Issue Air Construction Permit. Written comments should be provided to the Department's Bureau of Air Regulation at 2600 Blair Stone Road, Mail Station #5505, Tallahassee, Florida 32399-2400. Any written comments filed shall be made avail-

able for public inspection. If 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. Mediation is not available in this proceeding.

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 fourteen days of receipt of this notice of intent, whichever occurs first.

Under section 120.60(3), 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 petitioner must so indicate; (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; and (g) A statement of the relief sought by the petitioner, stating precisely the action 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.

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:

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:

Department of Environmental Protection
Bureau of Air Regulation
111 S. Magnolia Drive, Suite 4
Tallahassee, Florida 32301
Telephone: 850/488-0114
Fax: 850/921-9533

Department of Environmental Protection
South District Office
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901-3881
Telephone: 239/332-6975
Fax: 239/332-6969
The complete project file includes the Draft Permit, and the information submitted by the responsible official, exclusive of confidential records under Section 403.111, F.S. Interested persons may contact the Program Administrator, South Permitting Section at 111 South Magnolia Drive, Suite 4, Tallahassee, Florida 32301 or call

Order Confirmation

| | | | |
|--------------------------------|--|---|---|
| <u>Ad Order</u> 0001149732 | <u>Customer</u> LCBC-SOLID WASTE-J | <u>Payor Customer</u> LCBC-SOLID WASTE-J | <u>PO Number</u> Public Notice of Intent |
| <u>Sales</u> gvanderb | <u>Customer Account</u> A586659 | <u>Payor Account</u> A586659 | <u>Ordered By</u> Brigitte Kantor |
| <u>Order Taker</u> gvanderb | <u>Customer Address</u> PO BOX 2238 FORT MYERS FL 33902-2238 USA | <u>Payor Address</u> PO BOX 2238 FORT MYERS FL 33902-2238 USA | <u>Customer Fax</u> |
| <u>Order Source</u> Fax | <u>Customer Phone</u> (239)335-2463 | <u>Payor Phone</u> (239)335-2463 | <u>Customer EMail</u> Ltong@leegov.com |
| | | | <u>Special Pricing</u> None |

| | | | | | |
|--------------------|---------------|-------------------|------------------|-------------------|------------------|
| <u>Tear Sheets</u> | <u>Proofs</u> | <u>Affidavits</u> | <u>Blind Box</u> | <u>Promo Type</u> | <u>Materials</u> |
| 1 | 0 | 0 | | | |

| | |
|--|-----------------------|
| <u>Invoice Text</u> Public Notice of Intent | <u>Ad Order Notes</u> |
|--|-----------------------|

| | | | | | |
|-------------------|-------------------|---------------------|-----------------------|-----------------------|-------------------|
| <u>Net Amount</u> | <u>Tax Amount</u> | <u>Total Amount</u> | <u>Payment Method</u> | <u>Payment Amount</u> | <u>Amount Due</u> |
| \$295.20 | \$0.00 | \$295.20 | | \$0.00 | \$295.20 |

| | | | | | |
|---------------------------|----------------------|----------------|--------------------|--------------------------|-------------------------|
| <u>Ad Number</u> | <u>Ad Type</u> | <u>Ad Size</u> | <u>Color</u> | <u>Production Method</u> | <u>Production Notes</u> |
| 0001149732-0 | Legal Liner | 1.0 X 369 Li | <NONE> | AdBooker | |
| <u>External Ad Number</u> | <u>Ad Attributes</u> | | <u>Ad Released</u> | <u>Pick Up</u> | |
| | | | No | | |

| <u>Product Information</u> | <u>Placement/Classification</u> | <u>Run Dates</u> | <u># Inserts</u> | <u>Cost</u> |
|---|---------------------------------|------------------|------------------|-------------|
| <u>Run Schedule Invoice Text</u> The News-Press: Classified | 1001-1099 Legals | 1/25/2007 | 1 | \$295.20 |
| PUBLIC NOTICE OF INTENT TO ISSUE / PUBLICNOTICEOFINTENTTOISSUEAIR | | | | |



LEE COUNTY
SOUTHWEST FLORIDA
BOARD OF COUNTY COMMISSIONERS

RECEIVED

FEB 06 2007

(239) 338-3302

Bob Janes
District One

A. Brian Bigelow
District Two

Ray Judah
District Three

Tammy Hall
District Four

Frank Mann
District Five

Donald D. Stilwell
County Manager

David M. Owen
County Attorney

Diana M. Parker
County Hearing
Examiner

February 2, 2007

Mr. Al Linero, Program Administrator
Fl. Dep't. of Environmental Protection
111 S. Magnolia, Suite 23
Tallahassee, FL 32301

BUREAU OF AIR REGULATION

**Subject: PSD-FI-151D (0710119-005-AC
Lee County Waste to Energy Facility
Unit 3 Construction Permit Extension**

Dear Mr. Linero:

Upon review of the subject materials and the 'Intent to Issue Air Construction Permit', we would like to point out some minor inconsistencies between the requirements of the PSD permit and the 'Summary of Best Available Control Technology Determination' that is attached to the Permit as Appendix BD. We have attached a copy of the letter from Mr. David Dee to Ms. Trina Vielhauer, dated October 22, 2003, that previously detailed these inconsistencies and are again providing these same comments as follows:

1. In Appendix BD, on page BD-2, third full paragraph, the first sentence states that "a BACT emission limit of 110 ppmvd @ 7% O₂ shall be established on a 30-day rolling average". This sentence should refer to a 12-month rolling average, consistent with the provisions of Sections III.B.4 and III.B.8 in the permit.
2. Similarly, on page BD-3, in the initial paragraph, the last sentence states that the "Department will establish two CO limits as BACT, the NSPS as well as a 30-day rolling average of 80 ppmvd @ 7% O₂". This sentence also should refer to a 12-month rolling average.
3. On page BD-4, the table indicates that the emission limit for carbon monoxide is "80 ppm @ 7%O₂ - 30-day rolling average". Here, too, a 12-month average should be used.

As mentioned before, these comments warrant no further action by the Department. The County simply wishes to identify the inconsistencies for the record and avoid any potential confusion in the future regarding the applicable emission limits.

Mr. Al Linero
February 2, 2007
Page 2 of 2

If you have any questions, please call me at 338-3302.

Sincerely,



Lindsey J. Sampson, Director
Solid Waste Division

w/ Attachment

Cc: D. Castro, HDR
R. Blackburn, DEP South District
File, PSD

LANDERS & PARSONS, P.A.

ATTORNEYS AT LAW

DAVID S. DEE
RONALD A. LABASKY
JOSEPH W. LANDERS, JR.
JOHN T. LAVIA, III
FRED A. McCORMACK
PHILIP S. PARSONS
ROBERT SCHEFFEL WRIGHT

310 WEST COLLEGE AVENUE
TALLAHASSEE, FL 32301

MAILING ADDRESS:
POST OFFICE BOX 271
TALLAHASSEE, FL 32302-0271

REC'D MAR 24 2004

October 22, 2003

TELEPHONE (850) 681-0311
TELECOPY (850) 224-5595
www.landersonparsons.com

Ms. Trina Vielhauer
Bureau Chief
Division of Air Regulation
Department of Environmental Protection
2600 Blair Stone Road
MS 5505
Tallahassee, Florida 32399-2400

Re: Lee County Solid Waste Energy Recovery Facility;
Permit No. PSD-FL-151C

Dear Trina:

On October 13, 2003, the Florida Department of Environmental Protection issued a PSD permit (No. PSD-FL-151C) for the construction of the third municipal waste combustor at the existing Lee County Solid Waste Energy Recovery Facility. After reviewing the Department's permit, the County noted a few inconsistencies between the requirements of the PSD permit and the "Summary of Best Available Control Technology Determination (BACT)" that is attached to the permit as Appendix BD. On behalf of Lee County, I am sending you this letter to identify the inconsistencies for your records.

1. In Appendix BD, on page BD-2, third full paragraph, the first sentence states that "a BACT emission limit of 110 ppmvd @ 7% O₂ shall be established on a 30-day rolling average." This sentence should refer to a 12-month rolling average, consistent with the provisions of Sections III.B.4 and III.B.8 in the permit.

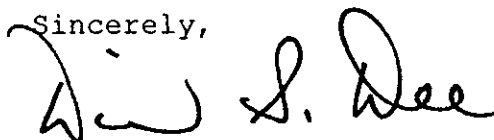
2. Similarly, on page BD-3, in the initial paragraph, the last sentence states that the "Department will establish two CO limits as BACT, the NSPS as well as a 30-day rolling average of 80 ppmvd @ 7% O₂." This sentence also should refer to a 12-month rolling average.

Ms. Trina Vielhauer
October 22, 2003
Page 2

3. On page BD-4, the table indicates that the emission limit for carbon monoxide is "80 ppm @ 7% O₂ -- 30-day rolling average." Here, too, a 12-month average should be utilized.

None of these comments warrant any further action by the Department. The County simply wishes to identify the inconsistencies for the record and thus help avoid potential confusion in the future concerning the emission limits that are applicable to the County's Facility.

Sincerely,

A handwritten signature in cursive script that reads "David S. Dee". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

David S. Dee

cc: Lindsey Sampson
✓ David Owen
Don Elias
Sam Rosania
Hamilton Oven