



Department of Environmental Protection

Lawton Chiles
Governor

Southwest District
3804 Coconut Palm Drive
Tampa, Florida 33619

Virginia B. Wetherell
Secretary

February 18, 1997

The Honorable Mark Ogles
504 137th Street, East
Bradenton, Florida 34202

Dear Mr. Ogles:

The Piney Point phosphate complex consists of 1) an existing facility containing a sulfuric acid plant and various other production units for producing phosphate fertilizers, which has been shut down since 1992, referred to as the "old" plant, and 2) a proposed new sulfuric acid plant, referred to as the "new" plant.

Permitting of the new plant has been controversial, including a public meeting which was held February 15, 1996. Currently, the permitting process for the new plant has been suspended, due to DEP's granting of an extension of time to Manatee County to file for an administrative hearing regarding the proposed permit for the new plant.

In December 1996, Piney Point's owner, Mulberry Phosphates, Inc., visited the DEP to discuss permitting and restart of the old plant. All major facilities in Florida in certain categories, including Piney Point, were required to submit a Title V air permit application, under the Clean Air Act, in June, 1996, and the Department has until October 1998 to issue the corresponding permits. We agreed at that meeting to start processing the Title V air permit application for the old plant, and we have subsequently issued a letter (attached) to Mulberry Phosphates, requesting answers to various questions regarding the application.

Pending answers to the questions in our letter, it is possible that the permitting of the old plant will require an application for a construction permit (or permits), which require public notice and the opportunity for public participation via administrative hearings or mediation. In any case, the Title V permit also will require public notice and the same rights for public participation.

From an air permitting standpoint, the most critical issue is whether the restart of the old plant will be subject to PSD (Prevention of Significant Deterioration) review, a rigorous review applicable to major modifications at major facilities. Our PSD section in Tallahassee (contacts are listed in the last paragraph of this letter) is currently evaluating whether the proposed renovations are subject to PSD review. Another air program, New Source Performance Standards (NSPS), in which applicability is related to whether renovation costs are more than 50% of the cost of a new facility, is not a major air permitting issue, since the NSPS standards are already applicable to the existing plant.

Rule 62-673, Florida Administrative Code, was made effective on March 25, 1993. Prior to this new rule, there was no requirement for such facilities to close inactive phosphogypsum stacks. In addition, the rule allows Piney Point to apply for a temporary deactivation of the stack to respond to unfavorable market conditions. An Order authorizing temporary deactivation has been issued by the Department to this facility following their application, and is in effect until July 23, 1997. They have the option of reapplying to extend it for another year and the Department could grant such extension provided they meet the criteria specified under the rule.

The Department is aware of a single family residence using a potable well located near the Southeast corner of Piney Point property. This well has been tested for pollutants typical of phosphogypsum stack waste by the Department and has been found to not have been affected. This well will be monitored on a frequent basis by the Department and Piney Point to ensure that it continues to be unaffected.

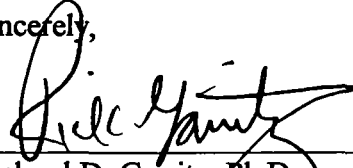
A Consent Order was entered into between the Department and the facility that required the facility to perform a ground water investigation at the site. The purpose of this investigation was to determine the subsurface conditions present at the site to explain certain water quality exceedences found in their monitor wells. The results of this investigation were reviewed by the Department and discussed extensively with the facility representatives. The Department and Piney Point have agreed that additional investigation is necessary. This will be performed in accordance with an amendment to the previous Consent Order. It will be more intensive in nature and will focus on specific areas of concern. Upon completion of this investigation, the existing Ground Water Monitoring Plan (GWMP) may be modified, and the facility may be required to perform corrective actions, if necessary.

Please do not hesitate to contact us if we can be of further assistance. Individual contacts who may be helpful are:

Karen Collins, Director, Manatee Manatee Environmental Management Department, 941-742-5980; Al Linero 904-488-1344, supervisor of the air permitting section in Tallahassee, which processed the application for the new plant; Jerry Kissel 813-744-6100, ext. 107, supervisor of the air permitting section in our District, which is processing the application for the restart of the old plant; Douglas Beason 904-921-9624, a DEP attorney (e.g., regarding the status of the administrative hearing referred to above); Sam Zamani 813-744-6100, ext. 148, administrator of our Phosphate Management program, on the phosphogypsum stack and water issues.

The Honorable Mark Ogles
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Sincerely,



Richard D. Garrity, Ph.D.
Director of District Management

Attachment

cc: D. Beason K. Collins
 J. Kissel ✓A. Linero
 S. Zamani

RDG/vs
oglespm.doc

cc: C. Fancy
 J. Reynolds

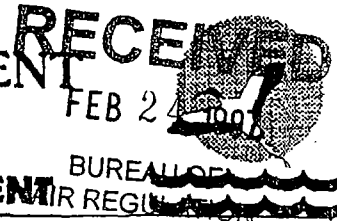
Jan Farley



MANATEE COUNTY GOVERNMENT

"To Serve With Excellence"

ENVIRONMENTAL MANAGEMENT DEPARTMENT



Post-It® Fax Note	7671	Date	2/17	# of pages	2
To	David Dec Esq	From	K. Collins		
Co./Dept	Landus et al	Co.	Manate Co EMD		
Phone #		Phone #	941-742-5980		
Fax #	904-224-5695	Fax #	941-742-5991		

MEMORANDUM

DATE: February 17, 1997

TO: Board of County Commissioners

THROUGH: Ernie Padgett, County Administrator

FROM: Karen M. Collins, Director *K*

RE: PINEY POINT PHOSPHATES, INC.; 2/7/97 LETTER FROM PAUL AMUNDSEN, ESQ. TO DOUG BEASON, ESQ.

Tomorrow, the County Attorney will be presenting an update on the status of Piney Point permitting and related matters. Your agenda package includes a letter from Paul H. Amundsen, Esq., representing Piney Point, to Doug Beason, Esq., FDEP Office of General Counsel. The Introduction portion of Mr. Amundsen's letter contains a number of misrepresentations I would like to respond to, in order to assure the Board that EMD staff is closely monitoring Piney Point's progress in securing the permits needed to reopen the facility.

- (1) Amundsen writes: "Manatee County was expressly invited to a meeting held at DEP's Tampa office in early December 1996 [12/10/97] but...chose not to attend."

Mr. Bill Thomas (DEP), rather than Piney Point, informed staff of this meeting and, as a courtesy, invited us to attend. Due to the short notice, my previously-scheduled seminar out-of-town, and our lack of an Air Quality Administrator, we were unable to be represented at that meeting. Mr. Thomas promised to debrief me after the meeting.

- (2) Amundsen writes that at a meeting called by Piney Point officials as a further effort to inform the County of their plans, "...the county representatives declined Piney Point Phosphates Inc.'s offer to provide details [of the company's plans]."

EMD staff (Karen Collins, Rob Brown and Doug Means) did meet with Ivan Nance and Tom Baroody (representing PPPI) on December 20, 1996 in our office, at Mr. Nance's request. During the meeting, Mr. Nance provided staff with a copy of his 12/17/96 letter to Mr. Bill Thomas, recapping his earlier meeting with DEP. Although this was the only information provided to EMD, I asked Mr. Nance for a copy of PPPI's [Clean Air Act] Title V permit when it became available. Staff encouraged the Piney Point officials to brief the Commissioners individually after the holidays, and to contact staff to determine a good time to make a detailed presentation to the Commission during a regular Board meeting. Since staff made these suggestions, Mr. Amundsen's statement that "These offers were also declined" is totally false.

- (3) Mr. Amundsen's statement (p. 2, first para.) that "The document pieces together a very inaccurate version of the facts when the true facts were so recently declined" [emphasis added] is also false. To date, all we have been provided as "facts" relative to PPPI's plans is Mr. Nance's 12/17/97 letter to Mr. Thomas, which includes as Exhibit I the proposed repairs and equipment replacement to the existing sulfuric acid plant. If Piney Point Phosphates, Inc. has more detailed documentation regarding its plans to refurbish the existing sulfuric acid plant, we have not seen it, nor was any other information offered during our December meeting or on any subsequent occasion.

I appreciate the opportunity to respond to these serious misrepresentations.

cc: H. Hamilton Rice, III
David Dee, Esq. (via FAX)

D. Pearson, OGC