# NOTICE OF PERMIT TERMINATION

In the Matter of a
Request by:

Mr. William E. Bush, Jr.
Vice President
Jack M. Berry, Inc.
P.O. Box 459
LaBelle, Florida 33975

FINAL Permit No.: 0510006-002-AV
LaBelle Facility

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Based on the information provided by the responsible official, the Jack M. Berry, Inc. – LaBelle Facility, located at 3655 State Road 80, West, Alva, Hendry County, is no longer a Title V facility. The rationale for this decision is based on the fact that there are no longer any operating emissions units at the facility. Therefore, the Department is expiring Title V Permit No.: 0510006-002-AV effective December 15, 2003.

Any party to this order has the right to seek judicial review of the action pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the permitting authority in the Legal Office; 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 (thirty) days from the date this Notice is filed with the Clerk of the permitting authority.

Executed in Tallahassee, Florida.

Trina L Vielhauer

Trina Vielhauer
Chief
Bureau of Air Regulation

Attachment

## CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this NOTICE OF PERMIT TERMINATION was sent by certified mail and copies were mailed by U.S. Mail before the close of business on 12/18/03 to the person(s) listed or as otherwise noted:

William E. Bush, Jr., Vice President, Jack M. Berry, Inc.

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.

Barbara J. Friday 12/18/03
(Clerk) (Date)

The undersigned duly designated deputy agency clerk hereby certifies that this NOTICE OF PERMIT TERMINATION was sent by U.S. Mail before the close of business on 12/18/03 to the person(s) listed or as otherwise noted:

Ron Blackburn, FDEP SD
USEPA, Region 4 (INTERNET E-mail Memorandum)

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.

Barbara J. Friday 12/18/03
(Clerk) (Date)

## Notice of Rights

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 (received) in the Office of General Counsel of the Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000 (Telephone: 850/488-9730; Fax: 850/487-4938). Petitions filed by the permit revision applicant or any of the parties listed below must be filed within fourteen 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), F.S., must be filed within fourteen 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), F.S., however, any person who asked the permitting authority for notice of agency action may file a petition within fourteen 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, 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 how and when each 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;

(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 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 notice of intent. 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 will not be available in this proceeding.

This permitting decision is final and effective on the date filed with the clerk of the Department 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 order will not be effective until further order of the Department.