



Florida Department of Environmental Protection

Northwest District
160 Governmental Center
Pensacola, Florida 32502-5794

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

March 4, 2008

Sent Via Email To:
bvinet3144@aol.com

In the matter of notification
of use of permit by:

DEP File No.: 0078449-006-SF
Escambia County

Mr. Brennon Vinet, President
Louisiana Investment Group, L.L.C.
5660 Saufley Field Road
Pensacola, Florida 32526

Dear Mr. Vinet:

NOTICE OF DENIAL OF PERMIT

On August 17, 2007, Louisiana Investment Group, L.L.C. (Applicant) submitted a permit renewal application (DEP File No. 0078449-006-SF, Facility Identification No. 3066) to construct, operate, or modify a construction and demolition debris disposal facility for long term care known as Saufley Construction & Demolition Disposal Facility. The Facility is located on 5660 Saufley Field Road, Pensacola, Escambia County, Florida. The Department of Environmental Protection hereby gives notice that it is denying this permit application.

The Department has permitting jurisdiction under Chapter 403, Florida Statutes (F.S.), Chapter 62-4, Florida Administrative Code (F.A.C.), and Chapter 62-701, F.A.C. The Department has determined that a Construction and Demolition Debris Disposal Facility Permit for long term care is required for the proposed work.

In order for the permit application to be timely and sufficient, the application should have been submitted sixty days prior to the August 21, 2007 permit expiration date. Since the operation permit renewal application was received less than sixty days prior to the expiration date and since the application was not made complete before the expiration date, the application is not considered timely and sufficient.

The Department hereby denies the permit for the following reasons:

Rule 62-4.055, F.A.C. states "... Failure of an applicant to provide the timely requested information by the applicable deadline shall result in denial of the application."

Rule 62-4.070(1), F.A.C. states "A permit shall be issued to the applicant upon such conditions as the Department may direct, only if the applicant affirmatively provides the Department with reasonable assurance based on plans, test results, installation of pollution control equipment, or other information, that the construction, expansion, modification, operation, or activity of the installation will not discharge, emit, or cause pollution in contravention of Department standards or rules."

Rule 62-4.070(2), F.A.C. states "If, after review of the application and all the information, the Department determines that the applicant has not provided reasonable assurance that the construction, modification, expansion, or operation of the installation will be in accord with applicable laws or rules, including rules of approved local programs, the Department shall deny the permit."

Rule 62-4.090(1), F.A.C. states "Renewals. Prior to ...sixty days before the expiration of any other Department operation permit, the permittee shall apply for a renewal of a permit using forms incorporated by reference in the specific rule chapter for that kind of permit. A renewal application shall be timely and sufficient. If the renewal application is submitted at a later date, it will not be considered timely and sufficient unless it is submitted and made complete prior to the expiration of the operation permit. When the application for renewal is timely and sufficient, the existing permit shall remain in effect until the renewal application has been finally acted upon by the Department..."

The Department has determined that the application was not timely and sufficient and that the Applicant has failed to provide requested information in a timely matter, and the Applicant has failed to provide reasonable assurance that it can operate a construction and demolition debris disposal facility in compliance with Chapter 403, F.S., Chapter 62-4, F.A.C., and Chapter 62-701, F.A.C.

To date, the stormwater management system for the facility has not been stabilized, does not perform as designed and therefore does not meet the requirements of Rule 62-701.730(5), F.A.C. and Part IV of Chapter 373, F.S. The facility has not been closed in accordance with Rule 62-701.730(9), F.A.C. The facility has not been constructed to minimize and control erosion. Eroded soils and stormwater continue to be conveyed offsite during rain events.

The applicant has failed to provide a groundwater monitoring plan that meets the Requirements of Section 62-701.510, F.A.C. and Rule 62-701.730(4)(b), F.A.C.

The Applicant has failed to provide proper financial assurance documentation and updates/modifications as required by Rule 62-701.730(11), F.A.C.

In accordance with **Rule 62-4.070(2), F.A.C.**, after review of the application and all the information provided by the Applicant, the Department has determined that the Applicant has not provided reasonable assurance that the operation of the installation will be in accord with applicable laws or rules therefore the Department is herewith denying the permit application and the existing permit no longer remains in effect.

The Department's Order of Denial of Permit will be considered final unless a timely petition for an administrative hearing is filed under Sections 120.569 and 120.57, Florida Statutes, within fourteen days of receipt of notice. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Petitions by the applicant or any of the persons listed below must be filed within fourteen days of receipt of this written notice. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3), Florida Statutes must be filed within fourteen days of publication of the notice or within fourteen days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), Florida Statutes, however, any person who has asked the Department for notice of agency action may file a petition within fourteen days of receipt of such notice, regardless of the date of publication.

The 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 or request for enlargement of time within fourteen days of receipt of notice shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, Florida Statutes. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, 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, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any; the Department permit identification number and the county in which the subject matter or activity is located;
- (b) A statement of how and when each petitioner received notice of the Department action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department action;

- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A statement of facts that the petitioner contends warrant reversal or modification of the Department action;
- (f) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take.

A petition that does not dispute the material facts on 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 have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

In accordance with Section 120.573, F.S., the Department advises that mediation is not available in this case as an alternative to filing a petition for an administrative determination.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of a petition this order will not be effective until further order of the Department.

Any party to this permit action has the right to seek judicial review of the action under Section 120.68, Florida Statutes, by the filing of a notice of appeal under Rules 9.110 and 9.190, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, 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 of appeal must be filed within 30 days from the date when this permit action is filed with the Clerk of the Department.

Executed in Pensacola, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



W. Richard Fancher
District Director

FILED, on this date, under Section 120.52,
Florida Statutes, with the designated deputy clerk,
receipt of which is hereby acknowledged.



Clerk

March 4, 2008

Date

cc: Karen Bishop, OGC, Tallahassee, Karen.bishop@dep.state.fl.us
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