



Florida Department of Environmental Protection

Northeast District
7825 Baymeadows Way, Suite B200
Jacksonville, Florida 32256

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard Jr.
Secretary

May 26, 2011

In the Matter of an
Application for Permit by:

Beazer East, Inc. Gainesville, Florida
Mr. Robert Markwell,
President
| [Beazer East, Inc.](#) - Gainesville, Florida
Oxford Center, Suite 3000
Pittsburg, PA 15219

File Number FLS711462 - 002 - ISW

Alachua County

INTENT TO ISSUE

The Department of Environmental Protection gives notice of its intent to issue a permit (copy of conditions attached) for the proposed project as detailed in the application specified above, for the reasons stated below.

| The applicant, [Beazer East, Inc.](#) - Gainesville, Florida, Mr. Robert Markwell, President, for the Gainesville site applied to the Department for a permit that authorizes an existing discharge of storm water from the site (former Koppers site), to a ditch which connects to Springstead Creek, Class III fresh water. This permit authorizes only storm water discharge from one location on this site (designated as outfall D-001). The point of discharge is located approximately at latitude 29°40' 55" N, longitude 82°19' 30" W near NW 23rd Avenue, Gainesville Florida, in Alachua County.

The Department has permitting jurisdiction under Chapter 403, Florida Statutes, and applicable rules of the Florida Administrative Code. The project is not exempt from permitting procedures. The Department has determined that a wastewater permit is required for the proposed work.

Based upon the application and supplemental information, the Department has determined that the applicant has provided reasonable assurance that the above described wastewater project complies with the applicable provisions of Chapter 403 of the Florida Statutes and Title 62 of the Florida Administrative Code.

Under Section 403.815, Florida Statutes, and Rule 62-110.106, Florida Administrative Code, you (the applicant) are required to publish at your own expense the enclosed Notice of Intent to Issue Permit. The notice must be published one time only within 30 days of receipt of this intent to issue in the legal ad section of a newspaper of general circulation in the area affected.

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For the purpose of this rule, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, Florida Statutes, in the county where the activity is to take place. Where there is more than one newspaper of general circulation in the county, the newspaper used should be one with significant circulation in the area that may be affected by the permit. If you are uncertain that a newspaper meets these requirements, please contact the Department at the address or telephone number listed below. The applicant must provide proof of publication to the Department's Northeast District Office, 7825 Baymeadows Way, Suite B200, Jacksonville, Florida 32256-7577, within two weeks of publication. Failure to publish the notice and provide proof of publication within the allotted time may result in the denial of the permit under Rule 62-110.106(11), Florida Administrative Code.

The Department will issue the permit with the attached conditions 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.

Under Rule 62-110.106(4), Florida Administrative Code, a person may request an extension of the time for filing a petition for an administrative hearing. The request must be filed (received by the Clerk) in the Office of General Counsel before the end of the time period for filing a petition for an administrative hearing.

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. Section 120.60(3), Florida Statutes, however, also allows that 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 an extension 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, as indicated in Rule 28-106.201, Florida Administrative Code:

- (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 determination;
- (c) A statement of when and how the petitioner received notice of the Department's decision;
- (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, including the specific facts the petitioner contends warrant reversal or modification of the Department's proposed action;
- (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the Department's proposed action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department's proposed action.

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 addition to requesting an administrative hearing, any petitioner may elect to pursue mediation. The election may be accomplished by filing with the Department a mediation agreement with all parties to the proceeding (i.e., the applicant, the Department, and any person who has filed a timely and sufficient petition for a hearing). The agreement must contain all the information required by Rule 28-106.404, Florida Administrative Code. The agreement must be received by the Clerk in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, within ten days after the deadline for filing a petition, as set forth above. Choosing mediation will not adversely affect the right to a hearing if mediation does not result in a settlement.

As provided in Section 120.573, Florida Statutes, the timely agreement of all parties to mediate will toll the time limitations imposed by Sections 120.569 and 120.57, Florida Statutes, for holding an administrative hearing and issuing a final order. Unless otherwise agreed by the parties, the mediation must be concluded within sixty days of the execution of the agreement. If mediation results in settlement of the administrative dispute, the Department must enter a final order incorporating the agreement of the parties. Persons seeking to protect their substantial interests that would be affected by such a modified final decision must file their petitions within fourteen days of receipt of this notice, or they shall be deemed to have waived their right to a proceeding under Sections 120.569 and 120.57, Florida Statutes. If mediation terminates without settlement of the dispute, the Department shall notify all parties in writing that the administrative hearing processes under Sections 120.569 and 120.57, Florida Statutes, remain available for disposition of the dispute, and the notice will specify the deadlines that

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then will apply for challenging the agency action and electing remedies under those two statutes.

Executed in Jacksonville, Florida.

"FILED, on this date, pursuant to Section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby acknowledged."

Katy Higgins
Clerk _____ Date _____

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Melissa M. Long

Melissa M. Long, P.E.
Program Administrator

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this INTENT TO ISSUE and all copies were mailed before the close of business on May 26, 2011 to the listed persons.

Katy Higgins
Clerk _____

Enclosure(s):

Draft Permit

Draft Fact Sheet

Draft Administrative Order

Copies furnished to:

Elsa Potts, P.E., FDEP, P.E Administrator

Allen Hubbard, P.E., FDEP, IW Administrator

Kelsey Helton, P.G., FDEP

Michael Fitzsimmons, FDEP

Jessica Kleinfelter, P.E., FDEP

Virginia Buff, EPA Region IV

Florida Department of State-Division of Historical Resources

Florida Department of Community Affairs

Alachua County Health Department

Alachua County Board of County Commissioners

Justin Wolfe, Office of General Counsel

Frederick J. Murry, City of Gainesville, murryfj@cityofgainesville.org

John Mousa, jjm@alachuacounty.us, Alachua County EPD

Stewart Pearson, P.E., pearsonse@cityofgainesville.org,

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Rob.Markwell@TRMI.Biz

Rick Hutton, P.E., GRU

Caroline Silvers, P.G., St. Johns River WMD

Florida Fish & Wildlife Conservation Commission

Alan Obaigbena, P.E., FDOT