



pennsylvania

DEPARTMENT OF ENVIRONMENTAL PROTECTION
Waste Management Program

September 10, 2013

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Waste
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Delta Thermo
General Permit
Aspects

Mr. Robert Van Naarden
Delta Thermo Energy, A, LLC
One Northbrook Drive
1210 Northbrook Corporate Circle, Suite 100
Trevose, PA 19053

Re: Denial of Confidentiality Request
Delta Thermo Energy, A, LLC – Allentown Facility
APS ID# 799226, AUTH ID# 955622
City of Allentown
Lehigh County

Dear Mr. Van Naarden:

After a careful review of Delta Thermo Energy, A, LLC's (DTE) response to the technical deficiency letter dated April 16, 2013 related to the above referenced application, the Department of Environmental Protection (Department) has determined that the request for confidentiality is denied.

In its response dated May 30, 2013, DTE requested that portions of its application for a general permit to process and beneficially use municipal waste that were submitted to the Bureau of Waste Management be treated as confidential under the authority of 25 Pa. Code §127.12(d). Section 127.12(d) relates to air plan approvals issued by the Bureau of Air Quality. Therefore, DTE has failed to provide the proper basis upon which it is requesting confidentiality.

Section 271.5 in the municipal waste regulations, 25 Pa. Code § 271.5 and § 502(c) of the Solid Waste Management Act, 35 P.S. §6018.502(c), provide the basis upon which an applicant may request that information related to solid waste management be kept confidential. DTE has failed to demonstrate in accordance with §271.5(b)(1) and (2) that the information marked confidential contains trade secrets, processes, operations, style of work or apparatus of a person or is otherwise confidential business information. It has also failed to demonstrate that the information, if made public, would divulge production or sales figures or methods, processes or production unique to such applicant or would otherwise tend to affect adversely the competitive position of such applicant by revealing trade secrets.

Any person aggrieved by this action may appeal, pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. Section 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A, to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P.O. Box 8457, Harrisburg, PA 17105-8457, 717-787-3483.

September 10, 2013

TDD users may contact the Board through the Pennsylvania Relay Service, 800-654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at 717-787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST REACH THE BOARD WITHIN 30 DAYS. YOU DO NOT NEED A LAWYER TO FILE AN APPEAL WITH THE BOARD.

IMPORTANT LEGAL RIGHTS ARE AT STAKE, HOWEVER, SO YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD (717-787-3483) FOR MORE INFORMATION.

Sincerely,



Scott E. Walters, Chief
Permits Section
Division of Municipal and Residual Waste

cc: Michael Tucci
IES Engineers
1720 Walton Road
Blue Bell, PA 19422

September 10, 2013

bcc: Scott Walters
Stacy Daugherty
Bill Tomayko – NERO
Tracey McGurk – NERO
General Permit File
File

SEW:SLD:pa