

May 30, 2017

**CERTIFIED MAIL NO. 7001 2510 0005 9957 8700**

Dr. Rengarajan Ramesh  
Elcon Recycling Services, LLC  
11 LeParc Drive  
Princeton, NJ 08550

Re: Administrative Completeness Review  
Elcon Recycling Services, LLC  
Phase II RCRA Part B Permit Application  
Falls Township, Bucks County  
ID No. PAR 000 544 486  
APS No. 872052, AUTH No. 1075413

Dear Dr. Ramesh:

On March 1, 2017, the Department of Environmental Protection (“DEP”) received the above referenced Phase II RCRA Part B permit application (“the Application”), submitted by IES Engineers on behalf of Elcon Recycling Services, LLC (“Elcon”), for a proposed commercial hazardous waste storage and treatment facility to be located at 100 Dean Sievers Place in Falls Township, Bucks County.

DEP has conducted an administrative completeness review and has determined that the Application is not administratively complete. The following deficiencies are noted:

**Deficiencies**

- 1) Elcon’s affirmative responses to land use questions Nos. 1, 2, 3 and 4 and Elcon’s negative response to question No. 5, on page 3 of the General Information Form (“GIF”), indicate that the project is subject to land use review by DEP and that a land use conflict may be present. In addition, Elcon’s affirmative response to question No. 4, relating to the project meeting the provisions of the zoning ordinance or having zoning approval, is not supported by anything beyond a statement by Elcon that the intended use conforms to the current zoning designation and that approvals will not be required. Exhibit A-1 is offered as support for this statement. Exhibit A-1 is a copy of a Falls Township zoning map that indicates that the proposed project is located in an area zoned MPM – Materials Processing and Manufacturing – without further explanation.

DEP cannot determine from the information provided to what extent a land use conflict may be present. To facilitate DEP's review of the application for conformance to land use criteria, please provide additional information, including supporting documentation from the county and municipality, substantiating the compatibility of the project with the provisions of local zoning ordinances and what local approvals have been obtained or are still needed. The attached sample county and municipal land use letters are provided as a convenience to enable Elcon to adequately respond to this deficiency.

Reference is made to DEP Document No. 012-0200-001, *Policy for Consideration of Local Comprehensive Plans and Zoning Ordinances in DEP Review of Authorizations and Infrastructure*; Acts 67, 68 and 127 of 2000; and 25 Pa. Code § 269a.45(a), relating to land use.

- 2) Section 502(b) of the Solid Waste Management Act, 35 P.S. § 6018.502(b), states that "The application for a permit to operate a hazardous waste storage, treatment or disposal facility shall also be accompanied by a form, prepared and furnished by the department, containing the written consent of the landowner to entry upon any land to be affected by the proposed facility. ." Section 270.10(b) of the Code of Federal Regulations, 40 CFR 270.10(b), incorporated by reference pursuant to 25 Pa. Code § 270a.1, requires both the owner and the operator to sign the permit application.

On page 1 of Part A Form 8700-12, page 1 of the Part B application form, and page 2 of Form HW-C, Elcon represents itself as the landowner or owner of record of the property. No Form HW-E, Contractual Consent of Landowner, is provided; rather, a statement is provided claiming Elcon as an "equitable owner" of the property pursuant to a Purchase and Sale Agreement, dated January 23, 2014, between Elcon and the current landowner. Elcon asserts that it will obtain fee title to the property prior to receipt of any permits and asks DEP to review the Application on this premise.

It is premature for Elcon to sign the Part A and Part B application forms, or complete the compliance history Form HW-C, representing itself as the sole landowner or owner of record. If Elcon wishes DEP to proceed with a review of the Application based on Elcon's assertion that it will obtain sole legal ownership at some indefinite time in the future, then DEP needs to be certain that Elcon has the unconditioned legal ability to do so. To that end, please provide the complete Purchase and Sale Agreement so that DEP can evaluate the ability of Elcon to execute the agreement and obtain the necessary property ownership. If not otherwise specified in the Purchase and Sale Agreement, please indicate when, during the Application review process, Elcon will obtain sole ownership of the property and provide valid landowner signatures on the prescribed application forms. Alternatively, Elcon may revise the Application by having the current landowner of record co-sign the application.

- 3) The response and associated attachments provided in Module 9 to address the Phase II environmental assessment criteria found in Section 269a.50(b)(12) of the Department's Hazardous Waste Regulations, 25 Pa. Code § 269a.50(b)(12), relating to stormwater drainage from the project site, refer to a bio-infiltration stormwater basin. Other sections of the Application also refer to this basin. The basin is part of the facility as it is a structure or other appurtenance or improvement to land where residual waste processing is sought to be permitted and where hazardous waste is sought to be stored and treated. Attachment 16L-3 is a preliminary grading plan that shows the location of the basin as well as inlet and outlet piping locations. Comparison of Attachment 16L-3 with Figures 2-A and 2-C of Part A clearly show that the basin is not fully within the facility site delineation that was previously subject to Phase I siting review. The Application will need to be revised to relocate the basin, or specify alternative stormwater management facilities, to be fully within the current Phase I delineated facility site. Alternatively, Elcon could resubmit its Phase I siting application for an expanded facility site delineation encompassing the basin, which would necessitate a new Phase I review.
- 4) The response and associated attachment provided in Module 9 to the Phase II criteria in Section 269a.42(g), 25 Pa. Code § 269a.42(g), relating to hydrogeology, only address geotechnical concerns related to the underlying coarse unconsolidated deposits. While the response addresses potential structural impacts related to constructing on the facility site, the response does not provide information and analyses to allow DEP to further assess the facility site to determine the environmental impacts of the subsurface conditions, as required by Section 269a.42(g). Please note that the information and analyses should include an assessment of the use and suitability of a bio-infiltration stormwater basin, should this feature remain in the Application. Refer to Comment No. 3, above.
- 5) Several sections of the Application, particularly the Spill Assessment Report in Appendix A-9 of the General Information Section and Environmental Performance Standards for Miscellaneous Units in Section D-8 of Process Information, necessarily rely on geologic and hydrogeologic information and evaluations. Some of this information, and subsequent evaluations based upon the information, were generated by Elcon and its environmental consultants specifically to address regulatory requirements in the Application. Some of the information and analysis is from reports generated by others for purposes other than the Application and was used and relied upon by Elcon in the Application for its own purposes.

Elcon's use of, and reliance upon, geologic and hydrogeologic information in support of its own application should be done in accordance with accepted practice of geology. In addition, the information and analyses requested in Comment No. 4, above, should be prepared in accordance with accepted practice of geology. Please provide a professional geologist's certification in Section H of Form HW-E, Professional

Certification Hazardous Waste Facility Construction, Repair or Closure Activity or Application or Plan Submittal/Revision. The professional geologist's certification should also indicate what sections or portions of the Application the geologist's certification covers.

- 6) Please complete Section A.1 of Form HW-C, relating to name of applicant, by providing the required documentation of Elcon's legal name. The documentation should include Elcon's registration to conduct business in Pennsylvania.

While not an issue for administrative completeness, DEP notes the following advisory comments so that you may take the opportunity to address these comments in any resubmission:

### **Comments**

- 1) RCRA ID number and facility name are missing on several of the Checklist pages.
- 2) Under Table 1, Contents of Part A and Part B RCRA Application, Elcon lists all Section A appendices found Binders 1, 2 and 3 under the "Description of Contents" heading. Please update the "Description of Contents" to list all appendices for the other sections contained in Binders 3 through 6.
- 3) The Description of Site under Site Information Section on page 1 of the GIF should specifically indicate that Elcon is applying for a commercial facility for the treatment and storage of liquid hazardous and residual wastes.
- 4) Please revise the four Confidential Business Information ("CBI") diagrams found in Appendix D-7 and D-8 to reflect the diagrams provided in Elcon's May 8, 2017, letter regarding Elcon's assertion of confidentiality. These diagrams provide a simple listing of key equipment and are more descriptive for the general reviewing public by listing what equipment is subject to Elcon's claim for CBI without otherwise adversely impacting Elcon's claim

We also note that Elcon's claim for CBI is still unresolved. DEP is reviewing Elcon's May 8, 2017, response to its April 24, 2017, letter to Elcon on this subject and will address that claim separately from administrative completeness review.

For reasons of administrative incompleteness, and in accordance with Section 309(d) of the Hazardous Sites Cleanup Act, 35 P.S. § 6020.309(d), we are returning the Application. You may resubmit your application by providing one original and nine hardcopies, and one electronic copy, of your response addressing the deficiencies noted above. Please include the revision date on any pages, forms, reports, or drawings submitted as part of your response. Also, please include a signed certification verifying that the electronic version of Elcon's

response is an accurate copy and contains the same information as the hardcopy response. Except for issues related to Elcon's claim for CBI, no further DEP review will be conducted on the Application until Elcon submits a response to the noted deficiencies, at which time a new ninety-day administrative review period will commence.

Sincerely,

A handwritten signature in black ink, appearing to read "Patrick L. Patterson", with a long horizontal flourish extending to the right.

Patrick L. Patterson  
Regional Director  
Southeast Regional Office

Attachments: Sample County and Municipal Land Use Letters

cc: Mr. Gray, Falls Township  
Ms. Kostick, Bucks County Health Department  
Ms. Kinslow, U.S.E.P.A., Region 3  
Ms. Fitzpatrick, IES Engineers  
Re 30 (rw17wm)144.1