



May 15, 2019

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

Re: Notice of Intent to Deny
Phase II RCRA Part B Application
Elcon Recycling Services, LLC
ID No. PAR 000 544 486
APS ID No. 872052, AUTH ID No. 1075413
Falls Township
Bucks County

Dear Dr. Ramesh:

The Pennsylvania Department of Environmental Protection (DEP) has conducted a further technical review of the above referenced Elcon Recycling Services, LLC (“Elcon”) Phase II RCRA hazardous waste permit application (“RCRA application”) along with Elcon’s February 8, 2019, response to DEP’s November 8, 2018, deficiency letter on the RCRA application. DEP has identified remaining technical deficiencies with the RCRA application. Please refer to the attached Statement of Basis for a listing of those deficiencies.

Pursuant to Section 309(e) of the Hazardous Sites Cleanup Act, DEP has ten months, or until May 26, 2019, to complete a technical review of the RCRA application and make a recommendation to the Secretary to either approve or deny the application. DEP has completed its technical review and found the RCRA application deficient for reasons listed in the attachment to this letter. Pursuant to 25 Pa. Code §§ 270a.10(c)(7) and 270a.29(b), relating to general application requirements and permit denial, DEP has tentatively decided to deny the RCRA application.

This notice of intent to deny has been prepared in accordance with the requirements of 25 Pa. Code §§ 270a.10(c)(8) and 270a.80, relating to public notice and comment requirements. Public notices will be placed in both the *Pennsylvania Bulletin* and a local newspaper of general circulation. The public comment period will end 45 days after publication of these notices. Written comments on this notice of intent to deny should be submitted to the attention of the Regional Solid Waste Manager at the address provided at the bottom of this page. Please be advised that a public hearing may be required, depending on the public commentary received. The attached Statement of Basis also describes the public notice and comment process in more detail.

Note that Elcon may choose to comment on this notice of intent to deny by submitting a response that fully addresses each of the remaining technical deficiencies. If Elcon believes that any of the stated deficiencies are not significant, instead of submitting a response to that deficiency, Elcon should explain and justify how the current submission satisfies that deficiency. All comments received as part of the 45-day public comment period will be considered by DEP before making a final decision.

Sincerely,



Patrick L. Patterson
Regional Director
Southeast Regional Office

Attachment: Elcon Recycling Services, LLC Statement of Basis

cc: Mr. Gray, Falls Township
Ms. Kostick, Bucks County Health Department
Ms. Lemoine, U.S.E.P.A., Region 3
Ms. Fitzpatrick, IES Engineers
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The Pennsylvania Department of Environmental Protection (DEP) has completed its technical review of the Elcon Recycling Services, LLC (Elcon) Phase II RCRA Part B hazardous waste permit application (RCRA application) for a proposed commercial hazardous and residual waste storage and treatment facility to be located at 100 Dean Sievers Place within the Keystone Industrial Port Complex in Falls Township, Bucks County. DEP has identified remaining technical deficiencies with the RCRA application and has, pursuant to the general application and permit denial requirements of 25 Pa. Code §§ 270a.10(c)(7) and 270a.29(b) and in accordance with the review period mandated by Section 309(e) of the Hazardous Sites Cleanup Act, 35 P.S. § 6020.309(e), tentatively decided to deny the application. The technical deficiencies are listed below:

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1. The site plan revisions in Elcon's February 8, 2019, response located portions of the supporting office building, a future use area, and a parking lot outside of the facility site boundary that was subject to Phase I siting review. The definition of "facility" in both the residual and hazardous waste regulations makes it clear that the building and parking lot are considered appurtenances or improvements for purposes of the definition. Elcon went through the Phase I siting criteria and submitted information on the Phase II siting criteria using the previously reviewed facility site boundary. Elcon did not perform these analyses based on additional structures being located out of the facility site boundary. It is also important to DEP that all land, structures, appurtenances and improvements be encompassed in the permitted area of the facility so that DEP will have right of access to those areas during facility inspections. Please revise the drawings to show all features located within the facility site boundary identified as part of the previous Phase I siting evaluation.
 2. DEP has not received a complete and accurate Form HW-E, Contractual Consent of Landowner, as part of the application to date. While DEP notes that Elcon asserts that it will provide the form after it completes the purchase of the property pursuant to a Purchase and Sales Agreement, this is still considered an ongoing deficiency until the necessary landowner consent is actually provided.
 3. The proposed groundwater monitoring program does not provide for routine monitoring after the one-year baseline monitoring has been completed. DEP does not agree with Elcon's proposal to implement groundwater monitoring only after a significant release occurs during the operation of the facility. DEP recommends the implementation of a systematic Detection Groundwater Monitoring Program, based on a quarterly collection of groundwater samples, to provide the best assurance of earliest detection of any releases from hazardous waste management units. The Detection Groundwater Monitoring should begin after the completion of baseline groundwater monitoring. Based on the baseline monitoring data, the specific parameters to be monitored and the frequencies for conducting statistical tests can be established, as indicated in 40 C.F.R. § 264.98. Please revise your Groundwater Monitoring Plan accordingly.

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4. The proposed monitoring well locations seem to be acceptable, except for the well located to the west of the facility, which appears to be the upgradient well. DEP recommends placing the well approximately 50-60 feet to the west of the current proposed location to avoid any potential contamination from the hazardous waste units and to provide samples representative of background quality. Please revise Figure 2 to show all the wells labeled (MW-1 to MW-5) and the new location for the upgradient well, which should still be located within the facility site boundary.
5. The Radiation Screening Isolation Area should be moved to another location so that it is away from truck traffic and nearby workers at the facility. The area should be sized to accommodate more than one vehicle, and it should allow sufficient room for the safe manual screening of individual trucks from all sides without disturbing the normal traffic flow at the facility or endangering the individual(s) conducting the screening.
6. According to the radiation monitoring procedures at the facility, if the alarm set-point is exceeded, the truck driver will be instructed to go through the detectors again. This would seem to require the driver to proceed completely around the facility and then, rather than exiting the facility after passing by the outbound scale, make what appears to be a very sharp turn to access the inbound scale in order to be screened again. Please address this point and, if necessary, modify the action plan so that trucks can make the turn safely without interfering with regular traffic or exiting the facility.
7. Please refer to Elcon's Proposed Closure Schedule (Figure I-1), Item Nos. 31-33, which detail the collection and analysis of concrete samples, and removal of contaminated concrete, as needed. There is nothing included in the cost estimate for closure of the containment areas. Based on the thickness of the concrete pads and berms, a volume can be calculated and added to the cost estimate. The cost of demolition and removal should also be included if these containment structures cannot be decontaminated (See CostPro Version 6.1 User Manual Appendix A – CostPro Help System). When completing the cost estimate for closure, the closure plan must be followed. See 40 C.F.R. § 264.142(a)(1).
8. When determining square footage of the containment areas, the surface area of tank bottoms shall not be subtracted from the total containment areas and the total areas of the berms must also be included.
9. To coincide with Elcon's proposed closure schedule (Figure I-1, Item ID Nos.27 - 29), a cost estimate for soil sample collection, analysis and potential contaminated soil removal should be provided.
10. The application states "In this closure bond, average disposal values were chosen for all waste types." Elcon should provide supporting documentation for unit costs and those costs should consider waste types. Per 40 C.F.R. § 264.142(a)(1), the cost estimates for

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final closure must equal the cost of final closure "...when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see § 264.112(b))." For example, Elcon cites a unit price of \$2.12/gallon to remove/treat/recycle/dispose of the maximum volume of hazardous waste in storage/treatment tanks. DEP researched similar facilities in the region and state and found unit prices for treatment and disposal of hazardous waste liquids ranging from \$0.15/gallon to \$7.21/gallon, which are highly dependent on the types and characteristics of waste, method of treatment or disposal, and sources of data. Please justify Elcon's cost estimate of \$2.12/gallon.

11. On February 28, 2019, the 2018 annual Gross Domestic Product became available. The Cost Estimate should be adjusted by the inflation factor of 1.023 [2018 Annual GDP (110.389)/2017 Annual GDP (107.948)].
12. In Elcon's response to Comment No. 22 in DEP's November 8, 2018, technical deficiency letter, regarding potential receiving facilities for Elcon's generated waste, Elcon references the USEPA National Capacity Assessment Report for waste disposal as indicating significant capacity to meet hazardous waste landfilling needs. Please indicate potential disposal facilities, and their distances from the Elcon site, that Elcon can reasonably expect to utilize, based on availability of disposal capacity and conformity of Elcon's expected waste types with the receiving facilities' permit requirements. DEP is not looking for disposal contracts or guarantees of service; rather, DEP is looking for some assurance that Elcon has identified permitted commercial hazardous waste facilities that will be able to accept and manage Elcon's generated waste.
13. Regarding pharmaceutical/biological wastes, RWC 312, please clarify that only liquid wastes will be accepted at the facility to be consistent with other statements concerning the acceptance of only liquid wastes at the facility, such as was done for RWC 311.
14. Elcon should clarify its acceptance or non-acceptance of PCB-containing waste streams. In parts of the Waste Analysis Plan, Elcon clearly states that the facility will not accept PCB-containing waste. However, the revised Section C-1 of the Waste Analysis Plan states that, for waste streams containing oil from electrical equipment, motors, or hydraulic systems in use prior to 1979, the generator must submit an analysis from a Pennsylvania-laboratory documenting that the PCBs are *de minimus* (i.e., below 50 ppm). Elcon is asked to recognize that DEP's Residual Waste Regulations define PCB-containing waste as "...solid waste containing PCB at a concentration of greater than 4 ppm, but less than 50 ppm". Therefore, if Elcon intends to accept certain wastes with PCB concentrations of less than 50 ppm, but greater than 4 ppm, Elcon will be accepting PCB-containing waste. Please clarify this point and revise the contradictory language in the application. If Elcon still intends to accept waste streams containing oils with PCB in concentrations of less than 50 ppm, please describe the treatment processes these PCB-containing wastes will undergo.

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15. Refer to comment No. 12 a. of DEP's November 8, 2018, deficiency letter. Elcon used a 140,000 sq. ft. facility and 120 full time equivalent workers in evaluating the annual fiscal impact to Falls Township and Pennsbury School District. These two figures are based on a combination of the currently proposed Phase I and a possible future Phase II expansion. Calculations should be based on the proposed Phase I values only, which consist of a 100,000 sq. ft. plant area and 55 employees. Phase I figures, not Phase I and Phase II, are consistent with the current permit application request. Revise all the calculations and narrative as necessary.
16. Regarding Elcon's response to Comment No. 39 of DEP's November 8, 2018, deficiency letter, the response for respiratory protection is acceptable. However, Elcon should incorporate the protective measure described in its response into the application's Section F narrative.
17. In Table 2 of the PPC Plan, Elcon incorrectly listed the Southeast Regional Office Radiation Protection Program Manager's phone number as the environmental emergency contact number during the day. Elcon should utilize DEP's general number 484.250.5900 for emergencies 24 hours per day.
18. By DEP letter dated March 24, 2017, Elcon was advised that several coordinated permits would be required for this project, including a Chapter 102 Construction/Stormwater Management permit. DEP is not aware that Elcon has applied for that permit to date. Elcon should submit that application to the DEP/Bucks County Conservation District so that the review can be coordinated with this application, particularly regarding the sizing and design of the stormwater basin and associated control features.

25 Pa. Code § 270a.80(b) provides that the public be given forty-five (45) days to comment on a notice of intent to deny a permit application. The comment period will begin on the latest of the dates that this notice is mailed, published in the *Pennsylvania Bulletin*, and published in a local newspaper of general circulation and will end at the close of business forty-five (45) days thereafter. All persons interested in commenting on the RCRA application or notice of intent to deny should do so in writing within this forty-five (45) day comment period. The public may send comments by mail to the Department of Environmental Protection (DEP), Waste Management, Southeast Regional Office, 2 East Main Street, Norristown, PA 19401, Attention: Regional Solid Waste Manager or by email to RA-EPHWELCON@pa.gov. Comments should include all reasonably available references, factual grounds and supporting material. A copy of the RCRA application can be reviewed at DEP's Southeast Regional Office by calling 484.250.5910 to schedule a file review appointment. Copies of the RCRA application and the notice of intent to deny are also available to the public online at www.dep.pa.gov/elcon.

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In the event DEP receives written requests for a public hearing within the comment period referenced above, a hearing may be scheduled at a location convenient to the population center nearest to the proposed facility. In the event DEP determines that there is a significant degree of interest in the proposed action and decides to hold a public hearing, public notice of the hearing shall be given at least 30 days before the hearing. Any requests for a public hearing accompanied by written specifics supporting the opposition to the proposed action should be addressed to the attention of the Regional Solid Waste Manager at the address listed above. Procedures for scheduling and holding a public hearing will follow the requirements found in 25 Pa. Code §§ 270a.80(c) and 270a.81.

When making a determination regarding the notice of intent to deny the RCRA application, DEP will consider all written comments received during the comment period, any oral or written statements received during the public hearing (if one is held), the requirements of the hazardous waste regulations of 25 Pa. Code Chapters 260a–270a and 40 C.F.R. Parts 260–270, and the DEP’s permitting policies. If, after issuing a notice of intent to deny, DEP’s decision is to issue the permit, the notice of intent to deny will be withdrawn and DEP will proceed to prepare a draft permit in accordance with 25 Pa. Code §§ 270a.10(c)(9) through 270a.10(c)(14).

DATE PREPARED: May 7, 2019