

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

TOM BUDD

Petitioners,

vs.

OGC Case No.: 24-1292

**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION
RAYONIER PERFORMANCE FIBERS, LLC.,
do MARK HOMANS, AUTHORIZED
REPRESENTATIVE, GENERAL MANAGER**

Respondents.

_____ /

PETITION FOR ADMINISTRATIVE HEARING

Petitioner, TOM BUDD, files this petition for a formal administrative hearing on the Department's Air Permit Application, Permit No. 0890004-070-AC, on or before April 25, 2024 in the above-styled OGC Case No.: 24-1292.

This petition for formal administrative hearing is hereby filed with the Agency Clerk in the Office of General Counsel, by electronic mail to AgencyClerk@FloridaDEP.gov.

Petitioner, TOM BUDD, requested and received an extension of time to file a petition for formal administrative hearing on the Department's Air Permit Application, Permit No. 0890004-070-AC, on March 13, 2024, until April 25, 2024, in the above-styled OGC Case No.: 24-1292.

SUMMARY OF ISSUES AND RULES RAISED IN THIS PETITION

This project did not meet these applicable statutes and regulations required for preconstruction review in Rule 62-212.300, F.A.C. and the review requirements for major stationary sources of NO_x, SO₂ and CO in Rule 62-212.400, F.A.C. for the Prevention of Significant Deterioration (PSD) of Air Quality because this proposed project was required to, but did not seek and obtain the required PSD review and a review of greenhouse gases (GHG) emissions prior to issuance of the permit.

Chapter 62-212 adopts and implements parts of the Federal major New Source Reduction (NSR) rules for the Prevention Significant Deterioration (PSD) air quality permitting. Based on actual emissions reporting the proposed project triggers the requirement to assess PSD applicability. FAC 62-212.300 General Preconstruction Review describes the procedures for issuing an Air Construction Permit that does not trigger PSD review. FAC 62-212.400 PSD describes “the actual to projected actual” approach for PSD applicability. The Agency DEP did not use the current and best available data during review of this permit application. Comparing the applicant’s self-reported “actual” Annual Emission Reports to the DEP for the past three years (2021, 2022, 2023), to the “projected” emissions shown in their air permit application, the air emissions will exceed the threshold of three important toxic pollutants NO_x, SO₂ and CO that should have triggered PSD review under FAC 62-212.400 and a review of greenhouse gases (GHG) emissions prior to issuance of the permit.

INFORMATION REQUIRED FOR PETITION PER PUBLIC NOTICE

Pursuant to the statement in the public notice, Petitioner states as follows:

(a) Agencies The Name And Address Of Each Agency Affected And Each Agency's File Or Identification Number, If Known:

The Agency is Florida Department of Environmental Protection Division of Air Resource Management 2600 Blair Stone Road, MS #5505 Tallahassee, Florida 32399-2400.

United States Environmental Protection Agency Region IV Sam Nunn Atlanta Federal Center (SNAFC) 61 Forsyth Street SW Atlanta, GA 30303-8960 phone: 800-241-1754.

(b) Petitioner and How The Petitioner's Substantial Interests Will Be Affected By The Agency Determination:

The Petitioner's name is Tom Budd, who resides at address: 307 Elm Street, Fernandina Beach, FL 32034, which is located near and proximate to the subject site. Tom Budd resides on property next to the subject site, approximately one (1) city lot, street from the plant (within approximately 100 yards) away from comparatively giant RYAM plant so close that he can see the existing "RYAM" plant wood chip materials pile from his front porch, can see the smoke stacks and smell the emissions from the existing plant, has dust and particulate matter from RYAM on his property and vegetable garden tomatoes, which he grows to eat, and has been and will continue to be exposed to the chemical emissions released to the air at the proposed facility at the "Rayonier plant" next to his property in Fernandina Beach, Florida. Petitioner is Email: tbudd126@gmail.com phone: but should and can be reached through undersigned counsel, RalfBrookes@gmail.com P.O. Box 100238 Cape Coral Florida 33910 phone (239) 910-5464 facsimile (866) 341-6086.

The Applicant and the Existing and Proposed Sources of Air Pollution.

As described in the draft permit¹ the applicant operates the existing Rayonier Performance Fibers, LLC, Fernandina Beach Dissolving Sulfite Pulp Plant (RPF Plant), which is located in Nassau County at 10 Gum Street in Fernandina Beach, Florida. The RPF Plant runs an acid sulfite-based pulp mill using ammonia as a base chemical for the manufacture of dissolving pulp. This plant produces approximately 10 different grades of pulp. The pulp produced at this plant is used in products such as plastics, photographic film, LCD screens, paints, cigarette filters, pharmaceuticals, food productions, cosmetics, and textiles.

The recovery boiler that supports the existing operations has a maximum throughput rate of 70,000 pounds (lb)/hour of oven-dry red liquor solids (RLS) and a nominal maximum heat input rate of 653.1 million British thermal units (MMBtu)/hour. The recovery boiler fires RLS and natural gas and provides steam for the evaporators. Its emissions are scrubbed for sulfur dioxide (SO₂) recovery using an ammonia solution. The recovery boiler is equipped with a wet scrubber to control SO₂ emissions and mist eliminators to control emissions of particulate matter (PM).

A continuous emission monitoring system (CEMS) is used to continuously monitor nitrogen oxide (NO_x) and SO₂ emissions.

Steam and energy that are needed at the mill are supplied by No. 6 Power Boiler.

The power boiler fires biomass (green bark, chips, knots, fines, landscape waste, and shredded currency), tires, No. 2 fuel oil for startup, No. 6 fuel oil with a maximum sulfur

¹ Draft permit, pp 3-4.

content of 2.5% by weight, and small quantities of facility-generated on-specification used oil (to be blended with the No. 6 fuel oil).

The boiler is equipped with a wet scrubber to control emissions of SO₂; an electrostatic precipitator (ESP) to control emission of PM; the staged combustion and flue gas recirculation (FGR) and a selective non-catalytic reduction (SNCR) with an ammonia (NH₃) injection system to control NO_x emissions.

The boiler is equipped with a NOR, CO and SO₂ CEMS to continuously monitor emissions.

Visible emissions are continuously monitored by a continuous opacity monitoring system (COMS).

A lignosulfonate product manufacturing plant owned by LignoTech Florida (LignoTech Plant) is co-located with the RPF Plant.

The Draft Permit states that “for PSD purposes, the RPF and LTF Plants are considered a single facility; however, the LignoTech Plant operates under a separate Title V Permit No. 0890444-006-AV.”

The LignoTech Plant can process up to 165,344 tons/year of red liquor on an oven dry basis from the RPF Plant to manufacture wet and dry lignosulfonate products. The products manufactured includes ammonium lignosulfonate, ion exchanged sodium lignosulfonate, and further processed ion exchanged sodium lignosulfonate.

As described in the permit, “**Rayonier Performance Fibers, LLC is proposing the addition of a new second-generation bioethanol production process to the existing RPF Plant, capable of producing approximately 7.5 million gallons of bioethanol for sale per year.**”

The proposed process will use spent sulfite liquor (SSL, also called red liquor) as the basis for ethanol fermentation and will consist of continuous fermenters, distillation and dehydration, and yeast recycling and conditioning systems.

Volatile organic compounds (VOC) emissions from the new bioethanol production process are expected to [include] ethanol and will be controlled by the fermentation vent scrubber using cold process water as the scrubbing solution.

The project also entails the construction of the bioethanol in-process and storage tank units all equipped with internal floating roofs.

The draft permit, p. 4 notes the following regulatory classifications are applicable to the RPF plant facilities²:

FACILITY REGULATORY CLASSIFICATION

- The RPF Plant is a major source of hazardous air pollutants (HAP).
- The RPF Plant is a Title V major source of air pollution in accordance with Chapter 62-213, F.A.C.
- The RPF Plant is a major stationary source in accordance with Rule 62-212.400, F.A.C. for the PSD of Air Quality.
- The RPF Plant operates units subject to the New Source Performance Standards (NSPS) of Title 40 Part 60 of the Code of Federal Regulations (40 CFR 60).
- The RPF Plant operates units subject to the National Emissions Standards of Hazardous Air Pollutants (NESHAP) of 40 CFR 63.”

² Rayonier Performance Fibers, LLC is proposing the addition of a new second-generation bioethanol production process to the existing RPF Plant,

(c) A statement of when and how each petitioner received notice of the agency action or proposed decision:

Petitioner, TOM BUDD, received notice via email and timely requested and received an extension of time to file a petition for formal administrative hearing on the Department's Air Permit Application, Permit No. 0890004-070-AC, on March 13, 2024, until April 25, 2024, in the above-styled OGC Case No.: 24-1292.

(d) A statement of all disputed issues of material fact. If there are none, the petition must so state:

The proposed bioethanol plant is proposed by Rayonier Performance Fibers, LLC (“RYAM”) at its Fernandina Beach, Florida plant does not meet applicable regulations because it is subject to the preconstruction review requirements for major stationary sources in Rule 62-212.400, F.A.C. for the Prevention of Significant Deterioration (PSD) of Air Quality. This is a disputed issue of facts and law.

Petitioners dispute the data included in the air construction permit as incomplete and inaccurate and allege that the projected actual emissions of key pollutants exceed the allowable limits set by applicable regulations and trigger Potential Significant Deterioration (PSD) review. A significant deterioration of air quality occurs when the air emissions of certain pollutants exceed their established individual thresholds. When this situation is anticipated, a Potential Significant Deterioration (PSD) review is triggered and must occur prior to issuing a final air permit. According to the applicant’s own Annual Emission Reports to the DEP for the past three years (2021, 2022, 2023) and the projected actual emissions shown in their air permit application (4), air emissions will exceed the threshold of several toxic pollutants’ NO_x, SO₂ and CO. Therefore, the proposed bioethanol plant must undergo a PSD review.

The data from the references is summarized in the Table below:

TABLE OF REPORTED ACTUAL EMISSIONS (in tons/year)

| RECOVERY BOILER | NO _x | SO ₂ | CO | VOC (*informational only, does not exceed threshold) |
|--|-----------------|-----------------|---------------|--|
| 2021 Actual Emissions (Reference note 1) | 1,169.00 | 191.05 | 437.40 | 4.21 |
| 2022 Actual Emissions (Reference note 2) | 1,357.00 | 157.11 | 522.11 | 4.31 |
| 2023 Actual Emissions (Reference note 3) | 1,266.00 | 121.24 | 305.97 | 4.48 |
| 2021 - 2023 Actual Emissions Average | 1,264.00 | 156.47 | 421.83 | 4.33 |
| Projected Actual Emissions (PAE) (Reference note 4) | 1,754.00 | 283.29 | 603.12 | 30.44 |
| Emissions Difference (Projected - Average) | 490.00 | 126.82 | 181.29 | 26.11 |
| PSD Threshold | 40 | 40 | 100 | 40 |
| PSD Significant (PSD review required) | Yes | Yes | Yes | No |

TABLE Reference Notes:

1. Rayonier Performance Fibers, LLC., **2021 Annual Actual Emissions Reporting to FDEP**
(2/24/2022)
2. Rayonier Performance Fibers, LLC., **2022 Annual Actual Emissions Reporting to FDEP**
(2/20/2023)
3. Rayonier Performance Fibers, LLC., **2023 Annual Actual Emissions Reporting to FDEP**
(2/16/2024)

4. Bioethanol Production Plant, Air Construction Permit Application, Rayonier Performance Fibers, LLC., Fernandina Beach, FL Plant - Appendix B, Table B-3 (November 2023)
5. U.S. Environmental Protection Agency, Greenhouse Gas Equivalencies Calculator
6. U.S. Environmental Protection Agency, 1.4 Natural Gas Combustion, Table 1.4-2. Emission Factors for Criteria Pollutants and Greenhouse Gases from Natural Gas Combustion (<https://www3.epa.gov/ttnchie1/ap42/ch01/final/c01s04.pdf>)

Furthermore, when a PSD review is triggered, a review of greenhouse gases (GHG) emissions is also applicable if the projected annual emission of CO₂ equivalents (CO₂e) exceeds the threshold of 75,000 tons. Therefore, a PSD GHG review is also required because the threshold will also be exceeded due to three sources:

A. The emission of approximately 26,000 tons of CO₂ from the fermentation to produce 7.5 million gallons of anhydrous ethanol for sale, plus

B. About 35,000 tons of CO₂ from combustion of additional natural gas required to generate energy for the distillation, drying, etc. of the ethanol, and

C. More than 84,000 tons of CO₂ equivalents (CO₂e), from the estimated 293 tons of nitrous oxide produced during the combustion of the additional natural gas required, according to EPA's *Greenhouse Gas Equivalencies Calculator* (reference 5) and EPA's Natural Gas Emission Factors (reference 6 - *U.S. Environmental Protection Agency, 1.4 Natural Gas Combustion, Table 1.4-2. Emission Factors for Criteria Pollutants and Greenhouse Gases from Natural Gas Combustion* (<https://www3.epa.gov/ttnchie1/ap42/ch01/final/c01s04.pdf>))

(e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action:

The air permit application for the Fernandina Beach Dissolving Sulfite Pulp Plant Bioethanol Production Project, submitted by Rayonier Performance Fibers, LLC (Project No. 0890004-070-AC) was not exempt from PSD review and should have undergone PSD review and a review of greenhouse gases (GHG) emissions under the preconstruction review requirements in Rule 62-212.300, F.A.C. for major stationary sources and Rule 62-212.400, F.A.C. for the Prevention of Significant Deterioration (PSD) of Air Quality as set forth in this Petition above supra, section (d).

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action including an explanation of how the alleged facts relate to the specific rules or statutes:

The Bioethanol Plant will be located at a facility that is a major source of NO_x, SO₂ and CO for PSD purposes, and Petitioner alleges that the project will result in a Significant Emissions Increase for PSD pollutants NO_x, SO₂ and CO. Therefore, major NSR permitting and PSD review for NO_x, SO₂ and CO is applicable to the proposed project.

This project did not meet the preconstruction review requirements in Rule 62-212.300, F.A.C. and the review requirements for major stationary sources of NO_x, SO₂ and CO in Rule 62-212.400, F.A.C. for the Prevention of Significant Deterioration (PSD) of Air Quality by NO_x, SO₂ and CO because this proposed project was required to, but did not seek and obtain the required PSD review and a review of greenhouse gases (GHG) emissions prior to issuance of the permit.

Applicable statutes and regulations include Chapter 403 of the Florida Statutes (F.S.) and Chapters 62-4, 62-204, 62-210, 62-212, 62-296 and 62-297 of the Florida Administrative Code (F.A.C.). The RPF Plant “operates units subject to the New Source Performance Standards (NSPS) of Title 40 Part 60 of the Code of Federal Regulations (40 CFR 60). The RPF Plant operates units

subject to the National Emissions Standards of Hazardous Air Pollutants (NESHAP) of 40 CFR 63.” Draft Permit.

The draft permit, p. 4 notes the following regulatory classifications and applicable statutes and regulations are applicable to the facility:

FACILITY REGULATORY CLASSIFICATION

- The RPF Plant is a major source of hazardous air pollutants (HAP).
- The RPF Plant does not operate units subject to the acid rain provisions of the Clean Air Act (CAA).
- The RPF Plant is a Title V major source of air pollution in accordance with Chapter 62-213, F.A.C.
- The RPF Plant is a major stationary source in accordance with Rule 62-212.400, F.A.C. for the PSD of Air Quality.
- The RPF Plant operates units subject to the New Source Performance Standards (NSPS) of Title 40 Part 60 of the Code of Federal Regulations (40 CFR 60).
- The RPF Plant operates units subject to the National Emissions Standards of Hazardous Air Pollutants (NESHAP) of 40 CFR 63.

The draft permit, p. 7 also notes the following regulatory classifications are applicable to the facility “This emission unit is regulated under Rule 62-212.400, F.A.C., PSD; Rule 62-296.405, F.A.C., Fossil Fuel Steam Generators with More Than 250 MMBtu/Hour Heat Input; NESHAP Subpart A, General Provisions, and Subpart MM, NESHAP for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills, of 40 CFR 63, adopted and incorporated in Rule 62-204.800(11)(b),

F.A.C.; and NSPS Subpart A, General Provisions, and Subpart D, SOP for Fossil Fuel Fired Steam Generators, of 40 CFR 60, adopted and incorporated in Rule 62-204.800 (8)(b), F.A.C.”

Chapter 62-212, F.A.C – Stationary Sources – Preconstruction Review

Chapter 62-212 adopts and implements parts of the Federal major NSR rules for PSD and NNSR permitting. The proposed project triggers the requirement to assess PSD applicability.

FAC 62-212.300 General Preconstruction Review describes the procedures for issuing an Air Construction Permit that does not trigger PSD review.

FAC 62-212.400 PSD describes actual to projected actual approach for PSD applicability.

This project did not meet the applicable statutes and regulations required for preconstruction review in Rule 62-212.300, F.A.C. and the review requirements for major stationary sources of NO_x, SO₂ and CO in Rule 62-212.400, F.A.C. for the Prevention of Significant Deterioration (PSD) of Air Quality by NO_x, SO₂ and CO because this proposed project was required to, but did not seek and obtain the required PSD review and a review of greenhouse gases (GHG) emissions prior to issuance of the permit.

(g) A statement of the relief sought by the petitioner, precisely stating the action the petitioner wishes the agency to take with respect to the agency's proposed action:

A recommended order for denial of the proposed order and a final order denying the proposed permit as submitted for failure to first obtain and comply with PSD review and a review of greenhouse gases (GHG) emissions.

WHEREFORE, Petitioners respectfully request that the Florida Department of Environmental Protection forward this Petition to the Division of Administrative Hearings for assignment to an Administrative Law Judge, and that, after a formal hearing, the Florida Department of Environmental Protection **DENY** the subject permit.

Petitioner is amenable to mediation of this dispute with all or some of the parties at DOAH's mediation program or with an outside mediator.

Respectfully submitted on April 24, 2024.

/s/ RALF BROOKES ATTORNEY
Florida Bar No. 0778362
Ralf Brookes Attorney
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***Electronic service of pleadings and orders** in this case is requested at both the following two (2) emails: RalfBrookes@gmail.com and tbudd126@gmail.com

CERTIFICATE OF SERVICE

I certify that on April 24, 2024, the foregoing petition requesting a formal administrative hearing has been filed with the DEP Agency Clerk via electronic mail to :

Agency_Clerk@dep.state.fl.us ; Agency_Clerk@FloridaDEP.gov

and the

Office of General Counsel
Department of Environmental Protection
3900 Commonwealth Boulevard, Mail Station 35,
Tallahassee, Florida 32399-3000

A copy of the petition was also sent via email to **DEP General Counsel Kirk White**

/s/ RALF BROOKES ATTORNEY
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