



STATE OF DELAWARE
**DEPARTMENT OF NATURAL RESOURCES AND
ENVIRONMENTAL CONTROL**

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OFFICE OF THE
SECRETARY

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Secretary's Order No.: 2021-W-0010

**RE: Application of Synagro Technologies, Inc./Philadelphia Renewable Bio-Fuels, LLC,
for a Distribution and Marketing Permit for the distribution and marketing of
Class A/Exceptional Quality biosolids fertilizer products
throughout the State of Delaware**

Date of Issuance: March 16, 2021

Effective Date: March 16, 2021

Under the authority vested in the Secretary of the Department of Natural Resources and Environmental Control ("Department" or "DNREC"), pursuant to 7 *Del.C.* §§6003, 6004(b), 6006(4), and all other relevant statutory authority, the Department issues this Order, approving the Distribution and Marketing Permit to allow Philadelphia Renewable Bio-Fuels, LLC ("PRB"), a subsidiary of Synagro Technologies, Inc. ("Synagro" or "Applicant"), to distribute and market Class A/Exceptional Quality biosolids ("Class A biosolids") fertilizer products, generated in the City of Philadelphia Wastewater Treatment Plants, throughout the State of Delaware ("Application"). The following findings of fact based on the record, reasons and conclusions are entered as an Order of the Secretary in the above-referenced permitting proceeding.

Background, Procedural History and Findings of Fact

The Applicant, Synagro/PRB, seeks a Distribution and Marketing Permit for the distribution and marketing of Class A biosolids fertilizer products containing sludge that is treated at an out-of-state treatment plant, as set forth in its Application as noted above.

The Application submitted by Synagro/PRB is subject to various state and federal regulatory requirements, including, but not limited to, Part III, 7 DE Admin. Code 7103, Delaware's *Guidance and Regulations Governing the Land Treatment of Wastes* ("Biosolids Regulations"), and as provided for under Delaware law in 7 *Del.C.* Chapter 60. Additionally, the distribution of sludge, treated sludge or any product containing sludge generated outside the State of Delaware must meet the standards for Exceptional Quality ("EQ") as set forth in the Biosolids Regulations. Further, in accordance with the Biosolids Regulations, all appliers of sludge to land within the State of Delaware must comply with the requirements set forth by the United States Environmental Protection Agency ("EPA") at 40 CFR Part 503, *Standards for the Use of Disposal of Sewage Sludge* ("EPA's 503 Regulations").

As noted above, the Applicant seeks to distribute and market Class A biosolids containing sludge treated by PRB in Philadelphia, Pennsylvania. The PRB processes all of the sludge produced by Philadelphia's three water pollution control plants (the Southeast Water Pollution Control Plant, the Southwest Pollution Control Plant, and the Northeast Water Pollution Control Plant). Additionally, some wastewater from proximate areas (outside of the City of Philadelphia's city limits) is also treated at the aforementioned wastewater treatment plants. Areas outside of the City of Philadelphia's city limits include ten (10) municipalities and authorities located in Montgomery, Delaware, and Bucks counties in Pennsylvania.

The Applicant proposes to use a treated byproduct of the wastewater reclamation process at PRB, where the dewatered sludge is processed to further reduce pathogens through a process known as heat drying. During the heat drying process, the sludge is heated to at least 80°C (176° F) and the moisture content is raised to at least 90% solids, thus creating a "Class A" biosolids product. Additionally, it is required that the finished product be sampled for specific bacteria and chemical parameters to demonstrate that all state and federal requirements are met. This treatment renders the biosolids suitable for use as fertilizer.

There are many potential end uses for Synagro's finished Class A biosolids product. As noted in the Application, the pellets produced at PRB will be sold in bulk or bags to a variety of markets, including, but not limited to, landscaping, construction, soft blending and agriculture. Biosolids pellets may be utilized on farm fields, commercial sod farms, athletic fields, golf courses, lawns and for general landscaping purposes.

The EPA is required by the *Clean Water Act*, Section 405(d)(2)(C), to refine its risk assessments by continually looking at contaminants that are present in biosolids, and to establish updates to numeric limits and management practices as set forth in the EPA's 503 Regulations. Accordingly, as Delaware's Biosolid Regulations are required to be as stringent as the federal requirements, the Department shall adopt and enforce updates as established in the EPA's 503 Regulations. Furthermore, the Department requires the Applicant to ensure that the proposed biosolids distributed and marketed within the State of Delaware meet the Distribution and Marketing Permit conditions.

On February 17, 2020, the Department's Division of Water, Surface Water Discharges Section ("SWDS"), received the Application for a Distribution and Marketing Permit from Synagro/PRB, pursuant to Delaware's Biosolids Regulations, as noted above. On March 22, 2020, the Department received updated information from the Applicant, as requested by SWDS. Thereafter, on April 8, 2020, the Department published legal notices in both the *Sunday News Journal* and the *Delaware State News* advertising that a virtual public meeting would be held on the proposed Synagro/PRB Application on May 12, 2020, due to public interest regarding this Application. The Department also posted such information on the State of Delaware Public Meeting Calendar and on the DNREC web site. Subsequent to the virtual public meeting held on May 12, 2020, Keith Steck, Maria Payan, and Shelly Cohen requested an additional public meeting (due to their experiencing technical difficulties during that meeting), and/or a public hearing on this matter.

Accordingly, on May 24, 2020, the Department published legal notices in both the *Sunday News Journal* and the *Delaware State News*, advertising that a *second* virtual public meeting would be held on the proposed Synagro/PRB Application on June 17, 2020, and a virtual public hearing would be held on June 25, 2020. The Department also posted such information on the State of Delaware Public Meeting Calendar and on the DNREC web site. The second virtual public meeting on this Application was held by the Department on June 17, 2020, as specifically requested, however, no member of the public attended the same.

Department staff, representatives of Synagro/PRB, and one member of the public attended the June 25, 2020 virtual public hearing. While no comment was received at either the hearing itself or during the post-hearing phase of this matter, Mr. Steck had previously provided written comments to the Department following the May 12, 2020 virtual public meeting. Proper notice of the hearing was provided as required by law.

At the request of Hearing Officer Lisa A. Vest, a Technical Response Memorandum (“TRM”) was prepared by the technical experts in the Department’s SWDS. Specifically, the TRM was asked to (1) address the questions and concerns associated with this pending Application, as set forth in Mr. Steck’s comments received by the Department as noted above; (2) provide a formal regulatory review of the Applicant’s permit request; and (3) offer the SWDS’s conclusions and recommendations with regard to this pending Application for the benefit of the hearing record generated in this matter.

Subsequent to the Department’s TRM having been received for inclusion into the hearing record, Hearing Officer Vest prepared her Hearing Officer’s Report (“Report”), dated December 30, 2020, which expressly incorporated the TRM (dated July 20, 2020) therein. Ms. Vest’s Report set forth the procedural history, summarized and established the record of information (“Record”) relied on in the Report, and provided findings of fact, reasons, and conclusions. The Report is incorporated herein by reference. The Report concluded that the draft Distribution and Marketing Permit is protective of human health and the environment while being consistent with applicable state and federal regulations.

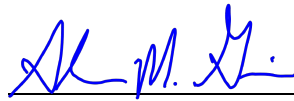
Reasons and Conclusions

Based on the Record developed by the Department's experts and established by the Hearing Officer's Report, I find and conclude that the Record supports approval of Synagro/PRB's Application for a Distribution and Marketing Permit, consistent with Delaware's Biosolids Regulations. Therefore, the recommendations of the Hearing Officer are hereby adopted, and I direct that a Distribution and Marketing Permit be issued to the Applicant to distribute and market Class A biosolids fertilizer products throughout the State of Delaware, in accordance with the Application, in the customary manner provided by law, and with appropriate conditions.

Further, the Department concludes and directs the following:

1. The Department has jurisdiction under *7 Del. C.* §§6003, 6004, 6006(4), and all other relevant statutory authority, to make a final determination on the Application submitted by Synagro/PRB after holding a public hearing, considering the public comments, and all information contained in the Record generated in this matter;
2. The Department provided proper public notice of the Application submitted by Synagro/PRB, as described above, and of the public hearing held on June 25, 2020, and held said hearing to consider any public comment that may be offered on the Applications, in a manner required by the law and regulations;
3. The Department considered all timely and relevant public comments in the Record, as established in the TRM provided by the Department's SWDS, which has now been expressly incorporated into the Record generated in this matter;
4. The Department has carefully considered the factors required to be weighed in issuing the permits required by the aforementioned Applications, and finds that the Record supports approval of the same;

5. The Department shall issue the Distribution and Marketing Permit to Synagro/PRB for distribution and marketing of Class A/EQ biosolids throughout the State of Delaware, consistent with the Record developed in this matter. Furthermore, said permits shall include all conditions as set forth in the Department's Draft Permit, to ensure that Delaware's environment and public health will be protected from harm;
6. The Department has an adequate Record for its decision, and no further public hearing is appropriate or necessary; and
7. The Department shall serve and publish its Order on its internet site.



Shawn M. Garvin
Secretary