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April 16, 1984

OF COUNSEL  
W. ROBERT FOXES

Steve Smallwood, Chief  
Bureau of Air Quality Management  
Department of Environmental Regulation  
2600 Blair Stone Road  
Tallahassee, Florida 32301

Re: Bay County Waste-to-Energy Project  
Air Construction Permit Application

Dear Steve:

I am writing on behalf of the Waste Technology Services Division of Westinghouse Electric Corporation (Westinghouse) in regard to its application for an air construction permit for a municipal-solid-waste-fired steam electric generating facility in Bay County, Florida. The purpose of my letter is to set forth our position and supporting facts regarding a PSD applicability issue that has arisen in connection with the permit application.

I would emphasize at the outset that neither the emission control technology nor the environmental impacts of the facility are likely to be affected by the outcome of the PSD applicability question. Westinghouse's concern on this point is simply to avoid unnecessary delays in the permitting process that would be probable if PSD review were required for this facility. Mr. Larry Lukin, the Department's Industrial Development Coordinator, suggested that we express our concerns to you with the goal of arriving at a mutually acceptable resolution of this matter. The discussion below is provided with that goal in mind.

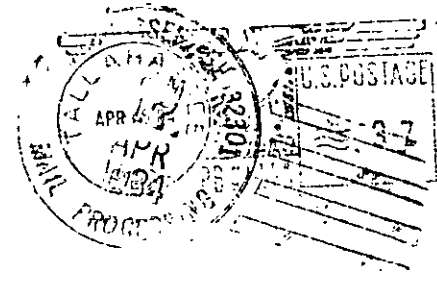
BACKGROUND

The proposed Bay County project is designed to produce steam and electrical power through the combustion of municipal solid waste and wood chips. Two O'Conner RC100 combustor/boilers, each with a capacity of 175 tons of municipal solid waste per day, will be utilized to produce high pressure, high temperature steam to power turbine-driven electrical generators. The maximum electrical generating capacity will be approximately six to ten megawatts. Electricity will be sold to Gulf Power Company or others. Design of the facility will also provide for future steam sales for manufacturing or other uses in an adjacent industrial park.

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Mr. Bob King  
Department of Environmental Regulation  
2600 Blair Stone Road  
Tallahassee, Florida 32301

In developing the plans for this facility, representatives of Westinghouse and other project participants have met several times with Department staff, including Bob Kriegel and Larry Lukin. It is our perception that the Department has taken a very positive view of the project, largely because it will provide an environmentally sound solution to Bay County's solid waste management problems. Mr. Lukin has expressed recognition of the importance of a "fast-track" permitting effort for this facility and to that end suggested that permit review be handled by the Department's Northwest District office. When Westinghouse representatives met with District staff to discuss a draft air permit application, however, they were advised that the application should be filed in the Central Air Permitting Section (CAPS) of the Department's Tallahassee office. In accordance with those instructions, the air permit application was transmitted to CAPS by letter dated March 22, 1984.

#### PSD APPLICABILITY ISSUE

As you know, a new air pollution source that falls within one of the 28 listed "Major Facility Categories" is subject to PSD review if the potential emissions of any regulated pollutant from the source would be 100 tons or more per year. For other types of sources, potential emissions must equal or exceed 250 tons per year before PSD permitting requirements are triggered. The facility proposed by Westinghouse will not emit 250 tons or more per year of any pollutant, but the emissions of carbon monoxide from each combustor/boiler are projected to exceed 100 tons per year. Consequently, these units will be subject to PSD review only if they fall within one of the 28 "Major Facility Categories". The question of how to categorize the two proposed combustor/boilers is thus crucial in determining whether PSD review will be required in the air permitting process.

In its permit application, Westinghouse stated that the proposed facility would consist of two "Carbonaceous Fuel Boilers". This description is based upon the definitions for "Carbonaceous Fuel" and "Carbonaceous Fuel Burning Equipment" in the Department's rules. Those terms are defined at Florida Administrative Code Rule 17-2.100 as follows:

"(29) "Carbonaceous Fuel" -- Solid materials composed primarily of vegetative matter such as tree bark, wood waste, bagasse, and/or the combustible fraction of municipal wastes.

(30) "Carbonaceous Fuel Burning Equipment" -- a firebox, furnace or combustion device which burns carbonaceous and fossil fuels for the primary purpose of producing

steam or to heat other liquids or gases.  
The term includes bagasse burners, bark burners, and waste wood burners, but does not include teepee or conical wood burners or incinerators." (Emphasis added.)

Westinghouse believes strongly that the "Carbonaceous Fuel Burning Equipment" definition describes the two combustor/boilers proposed for the Bay County project more accurately and more fully than any other source type mentioned in the Department's rules. Because they are not among the 28 "Major Facility Categories" listed at Florida Administrative Code Rule 17-2.500, Table 500-1, carbonaceous fuel boilers are not subject to PSD review unless they will have the potential to emit 250 tons or more of any pollutant. Because the proposed Bay County facility will not reach this threshold, the information requirements relating solely to PSD review were not addressed in the Westinghouse application.

We have been informed by Bob King of the Department's Bureau of Air Quality Management that after preliminary review of the Westinghouse permit application, he believes that the proposed facility should be categorized as an "incinerator". Because "Municipal incinerators capable of charging more than 250 tons of refuse per day" are one of the "Major Facility Categories" listed in Table 500-1, Mr. King has advised that the proposed facility is subject to PSD review, and thus that the permit application filed by Westinghouse appears to be incomplete.

After review of the applicable rules and regulations, and consideration of previous agency determinations relevant to this question, we remain convinced that the proposed facility is not subject to PSD permitting requirements. As discussed below, the facts of this case support the non-applicability of PSD review for two reasons: (1) the proposed combustor/boilers are carbonaceous fuel burning equipment; and (2) the environmental impacts of the facility will be minimized whether or not PSD review is required.

1. The Proposed Combustor/Boilers are "Carbonaceous Fuel Burning Equipment", NOT "Incinerators".

Bob King has indicated that his categorization of the proposed facility as a municipal incinerator is based upon two determinations in which the U.S. Environmental Protection Agency (EPA) indicated that federal New Source Performance Standards (NSPS) for incinerators may apply to resource recovery facilities that generate steam by burning municipal solid waste.

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merely involved reduction of the volume of Bay County's municipal solid waste by incineration.

The energy production purpose of the Bay County project is evident in the design of the facility. The fuel burning equipment is an integral part of the overall combustor/boiler designed by O'Connor Combustor Corp., which is marketed as an "integrated combustor/boiler system. The rotary combustor is water-cooled by a closed-circuit, forced circulation system that itself accounts for approximately 30% of the total unit steam-generation capacity. The remaining steam generation occurs in the integrally-mated boiler portion of the facility. The unit is designed to produce high pressure, high temperature steam for electrical generation or industrial purposes.

The O'Connor design is clearly distinguishable from the traditional incinerator in that it involves no refractories or moving grates. Because the O'Connor combustor technology was first released for commercial availability in 1977, it is apparent that EPA did not contemplate this type of unit when it established the Subpart E NSPS for incinerators in 1971. In fact, the O'Connor Combustor was originally patented for use as a wood-burning steam generator, and five of the eight units now in service burn fuels other than municipal waste.

We would also point out that the categorization of the Bay County facility for NSPS-applicability purposes is not necessarily dispositive of the PSD-applicability issue. In regard to the latter, the source categories specified in the Department's rules should be controlling. Under the definition of "Carbonaceous Fuel Burning Equipment" in Florida Administrative Code Rule 17-2.100, it is the purpose of the unit that is crucial. There can be no doubt that the proposed facility is a combustion device which will burn wood-waste and the combustable fraction of municipal wastes "for the primary purpose of producing steam". The definition of "incinerator" at Florida Administrative Code Rule 17-2.100(78) provides, at best, an incomplete description of the proposed facility. As these definitions apply throughout Florida Administrative Code Chapter 17-2, and have been approved by EPA as part of the State Implementation Plan, there should be no doubt that they are controlling for purposes of source categorization under the Department's PSD rule.

We understand that previously permitted resource recovery facilities in Florida have been treated as "incinerators". None of these facilities utilized the O'Connor combustor design, however, which is distinguishable from other waterwall type furnaces by the water-tube construction of the combustion

itself. Moreover, it is our understanding that the potential emissions from the other facilities exceeded the 250 ton per year PSE threshold, thus making the question of source categorization irrelevant with respect to PSD applicability. In contrast to those other resource recovery facilities, the level of permitting review in this case is dependent upon how the proposed facility is categorized. The Department's rules leave no doubt that this proposed facility should be considered a Carbonaceous Fuel Burner, and the practical ramifications of doing otherwise provide a strong reason for implementing the rules as written.

2. The Environmental Impacts of the Proposed Facility Will Be Minimized whether or Not PSD Permitting Requirements are Imposed.

In its permit application, Westinghouse has proposed to utilize state-of-the-art electrostatic precipitators to control emissions of particulate matter from the proposed facility. The design particulate emission rate for this equipment is 0.02 gr/dscf. This is much more restrictive than the rate of 0.08 gr/dscf required under the Subpart E NSPS for incinerators. It is also consistent with the particulate emission rate of 0.03 gr/dscf imposed by the Department as Best Available Control Technology (BACT) for the recently licensed Unit No. 3 at the Pinellas County resource recovery facility, which has approximately three times the capacity of the proposed Bay County facility.

In this regard, we would also point out that the primary focus of the PSD program is on particulate matter and sulfur dioxide. The proposed Bay County facility will emit very low levels of these pollutants, with annual emission of particulate matter estimated at approximately 15 tons per year per unit and annual emissions of sulfur dioxide estimated at approximately 42 tons per year per unit. In addition, the unique design of the O'Connor combustor will result in lower excess air levels, thus minimizing nitrogen oxides emissions.

In view of the design of the Bay County facility as proposed, and considering the emission limits established as BACT for previously permitted resource recovery facilities subjected to PSD review, it is evident that the application of PSD requirements to this project is highly unlikely to affect its emissions levels. There is consequently no apparent "environmental protection" basis for requiring PSD review of the Bay County project, as its environmental impacts will be minimized regardless of whether PSD requirements are imposed.

IMPORTANCE OF "FAST-TRACK" PERMITTING

The PSD applicability issue is important to Westinghouse because it will almost certainly affect the permitting time frame for the proposed facility. If PSD review is not required, and the permit application is deemed complete as filed, the deadline for issuance or denial of the permit will be June 24, 1984. If PSD review were required, it appears unlikely that a permit decision would be forthcoming until a considerably later date. Specifically, Westinghouse would have to totally revise the permit application to address the PSD information requirements, including a BACT proposal involving consideration of alternative technologies. Consequently, a completeness determination for the application would be put off for an unknown period of time, with a corresponding delay in the start of the 90-day permitting clock.

Of even greater concern to Westinghouse is the potential that pre-application ambient monitoring data could be required in connection with PSD review. Unless existing ambient data meeting the PSD quality assurance requirements could be utilized, Westinghouse would have to collect four to 12 months of data even before filing a permit application. While we believe that the predicted impacts of the proposed facility may be less than the de minimus levels specified at Florida Administrative Code 17-2.500, Table 500-3, we have not received final assurance from the Department that the facility would qualify for this ambient monitoring exemption. In any event, it is understandable that Department review of air permits tends to be more time consuming for PSD sources than for others, in view of the more comprehensive and complicated issues that must be addressed.

Any delay in obtaining the permit has potentially adverse consequences for the Bay County project. Because the project financing must remain on hold until receipt of the permit, delay in the permitting process will extend the period of time that capital already invested will remain at risk. Other project-related developments that must remain in limbo pending receipt of the air permit include federal grants for water and sewer lines and negotiations with potential industrial users of steam. Of particular interest to the Department, delay of this facility may affect the approval process for the proposed new Bay County landfill because such delay leaves undetermined the question of whether the County will have to construct a raw landfill instead of a residual landfill. Finally, permitting delay will inevitably slow the positive momentum generated thus far for the Bay County project, thereby increasing the possibility that organized opposition might arise.

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CONCLUSION

The Department's rules provide a strong basis for treating the proposed Bay County facility as a carbonaceous fuel burner that does not require PSD review. The environmental consequences of treating the facility in this manner will not differ from those resulting from the imposition of PSD permitting requirements. There is thus no justification for requiring PSD review for this project, with the attendant delays in the permitting process. Such delays would unquestionably place unnecessary obstacles in the path of the Bay County project, and could jeopardize the entire project.

We hope that after review of this matter you will agree that PSD review is neither required nor appropriate for the Bay County facility. Please do not hesitate to call me if you have any questions about this matter.

Sincerely,

  
Peter C. Cunningham

PCC/gs

cc: Steve Fox  
Larry Lukin  
Robert Kriegel  
Nancy Wright, Esquire  
Steve Smallwood  
Clair Fancy  
Bill Thomas  
Bob King  
Cleve Holladay