INTEROFFICE MEMORANDUM

Sensitivity: COMPANY CONFIDENTIAL

Date: 23-Nov-1999 12:32pm
From: Carolyn Salmon PEN
850)595-83 (
SALMON_C@a1.deppns.dep.state.fl.us

Dept:
Tel No:

To: Tom Cascio TAL (CASCIO_T@A1)

Subject: Bay Resources testing

Tom: Andy Allen, Ed Middleswart and I have discussed what testing we would like to require Bay Resources/Montenay conduct. We would like to require CO, lead, fluorides, VOC, mercury, and beryllium every 5 years, prior to permit renewal. They will be doing this battery of tests along with PM, SO2, NOX and VE in December.

Thanks, Carolyn

INTEROFFICE MEMORANDUM

Sensitivity: COMPANY CONFIDENTIAL

Date: 17-Nov-1999 11:06am

From: Carolyn Salmon PEN
850)595-8364

SALMON_C@a1.deppns.dep.state.fl.us

Dept:
Tel No:

595-8364

To: Scott Sheplak TAL (SHEPLAK_S@A1)
To: Michael Hewett TAL (HEWETT_M@A1)

Subject: Bay Co Resource Recovery

Bay Co Resource Recovery is scheduled to do extensive stack testing in December. The extended 1990 operating permit requires some metals and toxics test every 5 years - this is the year. Their consultant told me that the T5 draft specifies this testing at the department's request. Needless to say, they prefer not to do it. I'm of a mind that they should do all of the tests-that would give us a much better handle on what is happening. And they don't have the T5 permit yet. What is your opinion?

They do plan to replace the CO and O2 monitoring systems by spring 2000. We will let them defer the RATAs until the new systems are operational.

thanks, Carolyn Salmon

Tom, If there's a standard they should be doing testing at least every 5 years. Does permit require? Scott 11/18

595-8364

Called Carolyn 11-22-99

INTEROFFICE MEMORANDUM
(Draft)

Date: 02-Nov-1999 10:44am
From: Tom Cascio TAL
Dept:
Tel No:

To: nzimmerman@burkeblue.com@in

Subject: BAY COUNTY DRAFT PERMIT

Mr. Zimmerman:

As discussed with Scott Sheplak this morning, the PROPOSED Title V Permit for the Bay County Resource Recovery Facility will reflect the following changes to the DRAFT Permit:
1. Specific Condition A.3.2.3. will be deleted.
2. Specific Condition A.5.1.6. will be deleted.
3. We will add distillate fuel oil as an allowable fuel in Specific Condition A.5.1.1.
4. We will replace the reference to "pit" with "tipping floor" in Specific Condition A.5.1.4.

Note: Unfortunately, we did not discuss Specific Condition A.70. We're checking with Michael Hewett for an assessment. So, as for now, plans are to include it in the PROPOSED Permit.

Tom Cascio

-file- Copied Scott 11/1/99 CGH

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OFFICE OF THE COUNTY ATTORNEYS

October 28, 1999

RECEIVED
OCT 29 1999
BUREAU OF AIR REGULATION

C.H. Fancy, P.E.
Chief
Bureau of Air Regulation
Department of Environmental Protection
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: Bay County Resource Recovery Facility

Dear Mr. Fancy:

On October 22, 1999, Bay County, Florida ("Bay County") received from Florida's Department of Environmental Protection ("DEP") a draft copy of Title V Permit No. 0050031-002-AV (the "Draft Permit") governing air emissions from Bay County's resource recovery facility located in Bay County, Florida.

This letter is Bay County's comments to the Draft Permit. We would appreciate your prompt review of these comments and your Department issuing another Draft Permit that reflects the removal of Section III.A.3.2.3 before Bay County publishes the Public Notice. The importance of removing this section from the Draft Permit immediately is that the operations of the Resource Recovery Facility are to be transferred at 12:01am on November 4 to Montenay Power Company, and it is important that this specific provision be eliminated or the timely transfer of operations to Montenay will be in jeopardy.

The County's specific comments are as follows:

1. *Section III.A.3.2.3* Bay County requests that this section be **deleted.**

   Section III.A.3.2.3 of the Draft Permit provides: "If the facility exceeds the steam output level corresponding to 250 tons per day (equivalent to a steam flow of 66,667 lbs/hr) after completing the modification to the forced draft

NJZ\CORR\FANCY*

fan wheel, the facility will be required to be in compliance with all applicable federal and state MWC requirements for large MWC units on schedule. Section 129 of the Clean Air Act and the federal MWC regulations, as well as the approved Florida section 111(d)/129 plan, require all MWC units to be in compliance with all applicable requirements or close by December 19, 2000." (Draft Permit § III.A.3.2.3)

This Section was apparently inserted in response to EPA's position as stated in the conclusion section of its letter of September 30, 1999, which stated in part "[t]herefore EPA maintains the *position* that..." Certainly this is EPA's *position*, but it is not a permit condition. EPA certainly understands that its position may not be shared by others. Bay County strongly feels that this statement of *position* should not be included in the permit.

Bay County believes it is inappropriate to expressly incorporate such requirements in its Title V permit as state and federally enforceable permit conditions. Neither the Clean Air Act, EPA's regulations, nor Florida's law or regulations require that such a provision be incorporated in a Title V permit.

As a practical matter, a derated facility that experiences isolated upsets ought to have an opportunity to correct the underlying problem before being forced to comply with the large MWC regulations. For instance, such a correction can take the form of repair to malfunctioning equipment.

Finally, such a provision moots the enforcement discretion held by both EPA and DEP. If Bay County's MWC units violate applicable provisions of the Clean Air Act and its implementing regulations, Bay County is subject to civil and criminal enforcement action pursuant to section 113 of the Clean Air Act, 42 U.S.C. § 7413. Such enforcement action may include a grant of injunctive relief designed to ensure that additional violations do not occur or the imposition of monetary penalties. See, e.g., id. § 7413(b). The section of the Draft Permit set forth above forecloses such remedies and instead requires that Bay County either instantly achieve otherwise inapplicable standard at tremendous cost to the citizens of Bay County or shutdown entirely, or both. Such limited outcomes are unreasonable, under the circumstances.

In light of the foregoing, Bay County respectfully requests that DEP delete section III.A.3.2.3 from Bay County's Draft Permit and issue a final Title V permit which also omits that provision.

2. *Section III.A.70.* Bay County requests this section be **deleted.**

Section A.70 provides in part that "[based on the unreliable operation and data from the existing oxygen and carbon monoxide continuous monitoring systems, the Department requests that the following continuous monitoring systems be installed, calibrated and operated in accordance with 40 CFR 60, Part BBBB (proposed)..."

Bay County disagrees with the statement that existing oxygen and carbon monoxide continuous monitoring systems (CEMs) are unreliable. In that the existing CEMs are installed and operating as required, it appears unnecessary to require Bay County to install new CEMs pursuant to a proposed rule to measure data that is being collected for informational purposes only. It would be more efficient to install a comprehensive CEM system as part of the inevitable retrofit for small MWCs.

3. *Section III.A.5.1.6* Bay County should **not** be required to install CEMs to measure sulfur dioxide (SO2) and oxides of nitrogen (NOx).

A.5.1.6 also states that the Facility must install CEMs to measure SO2 and NOx. The facility has not installed air pollution control (APC) equipment and will not reduce SO2 or NOx emissions from the current levels (as required in the near future for Large MWCs). Therefore, Bay County should not be required to install CEMs to measure SO2 and NOx, because the CEMs data will be of little value (not needed for determining compliance) and there are no regulations (currently promulgated) that require these CEMs to be installed on small MWCs.

Also under this condition A.5.1.6 there is a reference to 40 CFR 60.53b, 40 CFR 60.58b and 40 CFR 60.59b which are regulatory citations for Subpart Eb (for MWCs installed after 1994). These citations should not affect the Bay Facility. With regard to the required CEMs system (CO, opacity, and oxygen), the installation, operation, and maintenance, along with the recording can be covered by specifying that the CEMs meet the requirements

of 40 CFR Subpart A, 60.13, and Appendix B and F. These are the current CEMs requirements listed in the existing operating permits (AO 03-165754 and AO 03-165755).

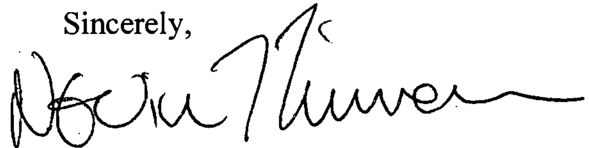
Also under A.5.1.6 there is a reference of natural gas to be fired, however, the plant uses fuel oil as the auxiliary fuel for start-up.

4. *Section III, A.5.1.1.* In A.5.1.1 there is a listing of fuels burned at the facility. The facility should be able to burn MSW, wood waste (up to 160 tons/day in both units), and fuel oil as auxiliary fuel.

5. *Section III, A.5.1.4.* In A.5.1.4 there is a reference to a pit. The facility has a tipping floor, and does not have a pit.

We appreciate your early consideration of the County's comments, and they have been listed in order of importance to Bay County. Your immediate attention to Comment No. 1 would be appreciated.

Sincerely,



Nevin J. Zimmerman

NJZ/wgm

cc: Jonathan A. Mantay, County Manager
Stephen S. Passage, Montenay Power Company
David Beachler, Esq., Danes & Moore
Tony LoRe, Camp Dresser & McKee
Charles (Skip) E. Cook, Camp Dresser & McKee

INTEROFFICE MEMORANDUM

Sensitivity: COMPANY CONFIDENTIAL

Date: 22-Oct-1999 02:09pm
From: Michael Hewett TAL
HEWETT_M
Dept: Air Resources Management
Tel No: 850/488-0114

To: Alvaro Linero TAL (LINERO_A)
To: Bruce Mitchell TAL (MITCHELL_B)
To: Tom Cascio TAL (CASCIO_T)
To: Scott Sheplak TAL (SHEPLAK_S)

Subject: Draft Bay County RRF Permit

850-769-1414
247

I spoke to Nevin Zimmerman (attorney for Bay County) today. After a quick review of the proposed permit they have only one major concern.

The EPA has always said that they believe if one of the Bay County MWC units ever goes above 250 tons per day after the derate, that unit should be considered large and subject to subpart Cb. Bay County did not argue that point with EPA but they did object to EPA making it a condition of the derate. That is why, in EPA's derate approval letter, their opinion concerning the applicability of subpart Cb is stated in the conclusion and not the conditions.

Bay County would like us to do the same. The Department may believe that if the measured steam production rate of either unit ever goes above 250 tpd (66,667 lbs/hr), that unit will no longer be considered "derated" and must comply with subpart Cb. However, by including it as a permit condition it implies that the County agrees. The County would like us to remove condition A.3.2.3. from the permit and state it in a letter instead.

Bruce and Tom, Zimmerman will likely call one of you on Monday. I told him that I would let you know that we have talked. I'll be in on Monday and can participate on the call if you think it will help.

Michael

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October 13, 1999

RECEIVED
OCT 15 1999
BUREAU OF AIR REGULATION

Mr. Thomas Cascio
Division of Air Resources
Florida Department of Environmental Protection
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399

Re: Bay County Resource Recovery Facility

Dear Mr. Cascio:

As instructed by your office of the Florida DEP, this letter formally requests a minor modification to the Bay County Resource Recovery Facility's (BCRRF) Title V Air Permit application that was submitted on June 7, 1996. This permit application stated that the design capacity of the BCRRF for each of two of the Municipal Waste Combustor (MWC) units is 255 tons of MSW per day, for a total of 510 TPD. The BCRRF has proposed to make a physical modification to each of the MWC units as described previously in the derating request letter sent to both EPA Region 4 and Florida DEP, dated June 16, 1999. This permit modification request would reduce the design capacity of the MWC units to 245 tons of MSW (having a higher heating value of 4500 Btu/lb) per day, and a corresponding steam flow of 65,333 lb/hr per unit, consistent with the derating request submitted on June 16, 1999. The physical modifications will be completed to meet the schedule outlined in the Florida DEP Plan for MWCs (i.e. on-site construction and/or process changes completed by September 12, 2000 and final compliance by December 19, 2000).

As you may know, the County has been negotiating with the USEPA Region 4 and Florida DEP regarding the derating request for a number of months. USEPA issued a letter to Florida DEP on September 30, 1999 stating their acceptance of the proposed derating of the MWC units at 245 TPD (see the attached letter dated September 30, 1999).

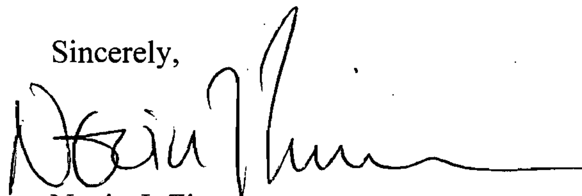
The major changes include the derated capacity of each MWC unit to 245 TPD MSW having a heating value of 4500 Btu/lb, and the listed owner of the Facility is the Bay County Board of County Commissioners. The County requests that

the Title V permits be modified to include changes as marked on the attached pages from the original application.

The County has sent a letter request to the Florida DEP to modify the construction permit(s)and that they be issued in the name of Bay County, the owner of the facility. The County is currently negotiating with Montenay to become the new operator, expected to take place later in the fall of 1999.

We trust that this information is sufficient to act on our request to modify the Title V Air Permit application. If you have any questions or need additional information, please call me at (850) 769-1414.

Sincerely,



Nevin J. Zimmerman

NJZ/wgm

Enclosure

cc: Bay County Board of County Commissioners
Jonathan A. Mantay, County Manager
R. Scott Davis, USEPA
Dale McKeand, BCESI
Steve Passage, Montenay
Wolfram Schuetzenduebel, Montenay
Charles Perry, Hunton & Williams
Tony LoRe, Camp, Dresser & McKee
David Beachler, Dames & Moore

Department of
Environmental Protection

DIVISION OF AIR RESOURCES MANAGEMENT

APPLICATION FOR AIR PERMIT - LONG FORM

I. APPLICATION INFORMATION

Identification of Facility Addressed in This Application

1. Facility Owner/Company Name : ~~Bay County Energy Systems, Inc.~~ Bay County Board of County Commissioners		
2. Site Name : Bay Resource Management Center		
3. Facility Identification Number : 0050031		[ ] Unknown
4. Facility Location : Bay Industrial Park - approximately 2 miles North of intersection of U.S. 231 and County Road 2301 Street Address or Other Locator : 6510 Bay Line Drive City : Panama City	County : Bay	Zip Code : 32404-____
5. Relocatable Facility? [ ] Yes [X] No		6. Existing Permitted Facility? [X] Yes [ ] No

Owner/Authorized Representative or Responsible Official

1. Name and Title of Owner/Authorized Representative or Responsible Official :

Name : ~~James M. Leddy~~ Jonathan S. Mantay
Title : ~~Plant Manager~~ Bay County Manager

2. Owner or Authorized Representative or Responsible Official Mailing Address :

Organization/Firm : ~~Bay County Energy Systems, Inc.~~ Bay County Board of County Commissioners
Street Address : ~~6510 Bay Line Drive~~
City : Panama City
State : FL Zip Code : ~~32404~~ 32402

3. Owner/Authorized Representative or Responsible Official Telephone Numbers :

Telephone : (904)~~785-7933~~ Fax : (904)~~784-1779~~

4. Owner/Authorized Representative or Responsible Official Statement :

I, the undersigned, am the owner or authorized representative of the non-Title V source addressed in this Application for Air Permit or the responsible official, as defined in Rule 62-210.200, F.A.C., of the Title V source addressed in this application, whichever is applicable. I hereby certify, based on information and belief formed after reasonable inquiry, that the statements made in this application are true, accurate and complete and that, to the best of my knowledge, any estimates of emissions reported in this application are based upon reasonable techniques for calculating emissions. The air pollutant emissions units and air pollution control equipment described in this application will be operated and maintained so as to comply with all applicable standards for control of air pollutant emissions found in the statutes of the State of Florida and rules of the Department of Environmental Protection and revisions thereof. I understand that a permit, if granted by the Department, cannot be transferred without authorization from the Department, and I will promptly notify the Department upon sale or legal transfer of any permitted emissions units.*

Signature ____________________ Date ____________

* Attach letter of authorization if not currently on file.

C. EMISSIONS UNIT DETAIL INFORMATION
(Regulated Emissions Units Only)

Emissions Unit Information Section 1
MSW-Fired Combustor/Boiler #1 W/ESP

Emissions Unit Details

1. Initial Startup Date :	01-May-1987
2. Long-term Reserve Shutdown Date :	
3. Package Unit : Manufacturer : O'CONNOR COMBUSTOR	Model Number : RC 120
4. Generator Nameplate Rating :	15 MW
5. Incinerator Information : Dwell Temperature :	1,800 Degrees Fahrenheit
Dwell Time :	1.00 Seconds
Incinerator Afterburner Temperature :	Degrees Fahrenheit

Emissions Unit Operating Capacity

1. Maximum Heat Input Rate :	~~96~~ 91.875 mmBtu/hr
2. Maximum Incinerator Rate :	~~21250.00~~ 20417 lb/hr ~~255.00~~ 245 tons/day
3. Maximum Process or Throughput Rate :	~~74800~~ #/hr steam flow 66,667 lb/hr steam (maximum 4-hour block ave.)
4. Maximum Production Rate :	
5. Operating Capacity Comment : 245 Combustor design capacity is ~~255~~ TPD based on a waste heating value of 4500 BTU/Lb. Both emission units feed a common turbine-generator.	

Emissions Unit Operating Schedule

Requested Maximum Operating Schedule :	
24 hours/day	7 days/week
52 weeks/year	8,760 hours/year

DEP Form No. 62-210.900(1) - Form
Effective : 3-21-96

C. EMISSIONS UNIT DETAIL INFORMATION
(Regulated Emissions Units Only)

Emissions Unit Information Section 2
MSW-Fired Combustor/Boiler #1 W/ESP

Emissions Unit Details

1. Initial Startup Date :	01-May-1987		
2. Long-term Reserve Shutdown Date :			
3. Package Unit : Manufacturer : O'CONNOR COMBUSTOR		Model Number : RC 120	
4. Generator Nameplate Rating :	15	MW	
5. Incinerator Information : Dwell Temperature : Dwell Time : Incinerator Afterburner Temperature :	 1,800 1.00 	 Degrees Fahrenheit Seconds Degrees Fahrenheit	

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3. Maximum Process or Throughput Rate :	~~74800~~ 66,667 lb/hr steam (maximum 4-hour block ave.)	#/hr steam flow		
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Requested Maximum Operating Schedule :		
	24 hours/day	7 days/week
	52 weeks/year	8,760 hours/year

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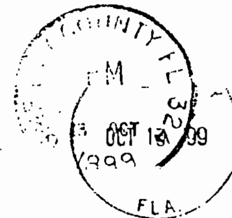

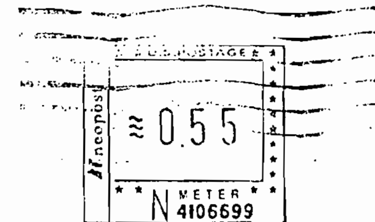

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Mr. Thomas Cascio
Division of Air Resources
Florida Department of Environmental Protection
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399

32399X6516 01

INTEROFFICE MEMORANDUM

Sensitivity: COMPANY CONFIDENTIAL

Date: 06-Oct-1999 04:33pm
From: Michael Hewett TAL
HEWETT_M
Dept: Air Resources Management
Tel No: 850/488-0114

To: Bruce Mitchell TAL (MITCHELL_B)
To: Ed Svec TAL (SVEC_E)
To: Alvaro Linero TAL (LINERO_A)

Subject: Bay County Permit

Bruce, Ed and Al,
I know you're working against a deadline to get the Bay County permit out and I don't want to complicate your work, but I have a question.

I've been dealing with the Bay County MWC facility for a while and I've discovered that they operate with O2 and CO continuous monitors. They are wet monitors, which means that there is a correction factor calculated during each annual test and used for the entire year. They are known to be inaccurate and the Department has taken enforcement action in the past for excess monitor downtime. They also have opacity monitors that apparently operate without problems.

Since the facility is making a process change (i.e. physically reducing the design capacity) in order to avoid costly improvements to the air pollution control systems, would it be possible to require them to upgrade their CEMs to meet the proposed subpart AAAA requirements now. They will eventually have to meet the proposed small MWC unit standards which are similar to the subpart Cb requirements. So by requiring them to upgrade their O2, CO and Opacity CEMs, we will be forcing them to comply ahead of schedule with conditions that are already imminent. The proposed subpart AAAA standards also require SO2 and NOx CEMs, but I think if we try to force them to continuously monitor pollutants they have not previously monitored, they might want to challenge us. If we just require them upgrade their existing monitors because of a poor compliance history, they might not make a fuss.

Please let me know whether you think the permit change is feasible and whether it is worth the effort.

Thanks

-file-

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUL 28 2000

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4APT-ARB

C.H. Fancy, P.E.
Chief, Bureau of Air Regulation
Department of Environmental Protection
Mail Station 5500
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

SUBJ: EPA's Review of Proposed Title V Permit for
Bay Resource Management Center, Permit Number 0050031-002-AV

Dear Mr. Fancy:

The purpose of this letter is to acknowledge the receipt of the State of Florida's proposed title V permit for the Bay Resource Management Center, which was posted on DEP's web site on July 19, 2000. U.S. Environmental Protection Agency (EPA) Region 4 has completed its review of the recently proposed permit and believes that the State will have sufficiently addressed each of the comments provided by Region 4 on the March 31, 2000, proposed permit, contingent on completion of the changes discussed below, regarding opacity triggered particulate matter test requirements. Therefore, EPA does not plan to object to this permit. Once the state's proposed changes and the changes below are incorporated into the permit, the State may proceed with permit issuance. Please note, however, that our opportunity for review and comment on this permit does not prevent EPA from taking enforcement action for issues that were not raised during permit review. After final issuance, this permit may be reopened if EPA or the permitting authority later determines that it must be revised or revoked to assure compliance with applicable requirements.

As agreed through phone conversations between Elizabeth Bartlett of the Operating Source Section, and Scott Sheplak and Bruce Mitchell of the Bureau of Air Regulation, the following permit language will be added at the end of condition A.72 to clarify opacity-triggered particulate matter test requirements: *"The stack test shall comply with all of the testing and reporting requirements contained in the preceding specific conditions and, where practicable, shall be performed while operating at conditions representative of opacity levels which triggered the test."* This language must be added to the title V permit for Bay County prior to issuance to prevent formal objection by EPA in accordance with 40 C.F.R. § 70.8(c).

In addition, EPA Region 4 recently identified language present in municipal waste combustor permits, including the proposed permit for the above-referenced facility, which could potentially be misinterpreted by permitted facilities. Condition A.5.1.8(g) states that used oil and

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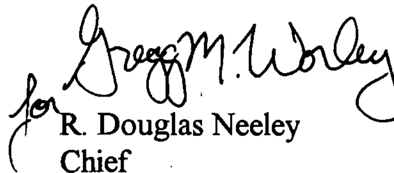
used oil filters will be permitted for combustion, and used oil containing a PCB concentration equal or greater than 50 ppm shall not be burned, pursuant to the limitations of 40 C.F.R § 761.20(e). However, this condition only partially identifies the requirements associated with the burning of used oil and does not sufficiently address the used oil requirements of 40 C.F.R. part 279 or PCB requirements of 40 C.F.R. part 761. EPA Region 4 recommends that, if the source intends to burn "on-specification used oil" at any time during the permit term, the permit should inform the permittee of requirements needed to demonstrate compliance with used oil specification requirements listed under § 279.11, and with the used oil PCB requirements of § 761.20(e), which apply to used oil containing any quantifiable PCBs, i.e., PCB concentrations greater than 2 parts per million. Additional requirements from these sections would apply if the source burned off-specification used oil or used oil with quantifiable levels of PCBs. EPA Region 4 recommends that FDEP revise the permit as appropriate to address this concern.

We commend the efforts of your staff for facilitating the resolution of the permit issues. If you have any questions about this letter, please contact Mr. Gregg Worley, Chief, Operating Source Section at (404) 562-9141.

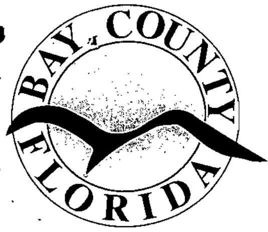
Sincerely,



R. Douglas Neeley
Chief
Air and Radiation Technology Branch
Air Pesticides and Toxics
Management Branch

cc: Mr. Jonathan A. Manatay, Bay County Administrator

—61—



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DISTRICT V

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June 22, 2000

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JUN 23 2000
BUREAU OF AIR REGULATION

VIA FEDERAL EXPRESS # 291 7806 787

Mr. C. H. Fancy, P.E.
Chief
Bureau of Air Regulation
Florida Department of Environmental Protection
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

RE: Bay County Resource Recovery Facility Title V Permit

Dear Mr. Fancy:

As you know, Bay County, Florida ("Bay County") has been working with Florida's Department of Environmental Protection ("DEP") and the United States Environmental Protection Agency, Region 4 ("EPA"), in an effort to derate two municipal waste combustors located at Bay County's resource recovery facility pursuant to the Clean Air Act ("CAA"). Bay County recently received a copy of a May 8, 2000 letter from DEP to EPA in which DEP stated its intention to "withdraw" Bay County's Title V permit as a result of several comments submitted by EPA on April 17, 2000 (a copy of this letter and EPA's comments is attached hereto).

Bay County believes that DEP is without authority to withdraw its Title V permit in the manner set forth in the May 8 letter and that, contrary to the position apparently taken by both DEP and EPA, Bay County's Title V permit became final and effective on March 31, 2000.

Florida's regulations governing the issuance of Title V permits, located at F.A.C. 62-213, establish specific time-frames within which DEP and EPA, among others, must act with respect to permit applications. According to the regulations, after a permit has been issued in draft form and subjected to a thirty-day public comment period, it must be forwarded to EPA for review. F.A.C. 62-213.450(1). At the time it is forwarded to EPA for this review, the permit is termed a "proposed" permit, rather than a "draft permit." See id. DEP's regulations specifically provide that EPA has only forty-five days in which to object to the proposed permit. Id. If

EPA fails to object within the forty-five day window, then DEP must issue the permit. <u>See</u> F.A.C. 62-213.430(1)(a), (d); 62-213.450(1).

Consistent with this regulatory scheme, on January 31, 2000 DEP wrote to the Bay County Administrator enclosing a copy of DEP's "Proposed Permit Determination" involving Bay County's permit application (copy attached). In that letter, DEP stated that Bay County's former draft permit had "become a PROPOSED permit" and had "been posted on the Division of Air Resource Management's world wide web site for" EPA to review. The letter further states:

> Pursuant to Section 430.0872(6), Florida Statutes, **if no objection to the PROPOSED permit is made by the USEPA within 45 days, the PROPOSED permit will become a FINAL permit no later than 55 days after the date on which the PROPOSED permit was mailed (posted) to USEPA**. If USEPA has an objection to the PROPOSED permit, the FINAL permit will not be issued until the permitting authority receives notice that the objection is resolved or withdrawn.

(emphasis added).

As the January 31 letter makes clear, EPA received, either through the mail or by "posting" on DEP's webpage, a copy of the proposed permit on January 31, 2000. Consistent with DEP's regulations, therefore, EPA was obligated to submit any objections to the proposed permit by March 16, 2000. EPA failed to object to the proposed permit. As a result, the proposed permit became final on March 31, 2000.

Despite the foregoing, and as noted above, EPA submitted comments related to the permit to DEP on April 17, 2000, more than two weeks after the time period in which EPA could provide objections had expired. In addition, EPA's comments were just that—they did not constitute a formal objection to the permit. EPA's submittal of comments was apparently premised on the misapprehension that the proposed permit had been "posted" or mailed for review on March 31, 2000 and that the window for EPA review closed on May 15, 2000. Bay Count is unaware of any correspondence between EPA and DEP extending the time frame in which EPA was obligated to review the proposed permit. Moreover, the permit regulations do not authorize DEP to unilaterally expand that time frame, with or without notice to Bay County.

Whatever the reason for EPA's delay in commenting on the proposed permit, DEP's regulations do not authorize DEP to "withdraw" or "reissue" Bay County's proposed permit in the manner contemplated by DEP's May 8 letter. To the contrary, as DEP's January 31 letter makes clear, absent timely objection by EPA, Bay County's proposed permit became final fifty-five days following its "posting" on DEP's webpage.[1] Moreover, because EPA's comments are untimely, they may not form the basis for DEP's intention to "withdraw" or "reissue" the now-final permit.[2] Finally, although DEP may withhold final action on a permit until EPA's formal objections are resolved, see F.A.C. 62-213.430(1)(d), nothing in the Title V permit regulations empowers DEP to perform the type of wholesale "withdrawal" or "reissuance" contemplated by the May 8 letter.

Bay County recognizes that DEP has the authority to alter the terms of a permit subsequent to its issuance in final form. See, e.g., F.A.C. 62-210.360 (administrative permit corrections), 62-4.080 (permit modification), 62-413.410 (changes without permit revision), 62-213.430(4) (permit revision procedures). Bay County views its correspondence with DEP concerning the language and terms of its final permit as being consistent with that authority. As a result, to the extent that DEP has agreed to alter the terms of Bay County's permit based on correspondence or discussions with Bay County subsequent to January 31, 2000, those alterations are both proper and enforceable under Florida law.[3]

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[1] Although the regulations authorize DEP to withhold final action concerning a proposed permit when DEP receives "timely EPA objection," DEP is not provided with similar discretion in the absence of EPA objection. See F.A.C. 62-213-430(1)(d).

[2] Although the permit regulations authorize DEP to take action with respect to a permit if it receives notice from EPA that "cause" exists to modify a permit, DEP has not, to Bay County's knowledge, received such formal notice from EPA. See F.A.C. 62-213.430(5). Indeed, EPA's April 17 comments are tentative in nature and do not set forth any basis ("cause") for modifying the permit's derating or other provisions in more than an administrative manner (i.e., by clarifying the parties' understanding of Bay County's averaging times following derating). Further, even if Bay County assumes that EPA's comments constitute the required notice, DEP has not, to Bay County's knowledge, initiated an investigation to determine if cause for modification exists in accordance with the regulations. As a result, EPA's "comments" should be disregarded, except to the extent that they confirm Bay County's, DEP's, and EPA's understanding of the settlement reached between Bay County and EPA in litigation formerly before the Eleventh Circuit Court of Appeals.

[3] As DEP knows, the alterations involving the permit's derating aspects were undertaken with the concurrence of EPA and formed the basis for Bay County's dismissal of two appeals filed in the

On a related note, and assuming the EPA's untimely comments warranted consideration by DEP, Bay County disagrees with DEP's conclusion that EPA's comment concerning the derating provisions of Bay County's permit necessitated a "significant change" in the permit and served as a basis—indeed, as the only basis—for withdrawing and reissuing the permit.[4] EPA's comment involved permit condition A.3.1. According to EPA, the sentence "'The maximum steam production shall not exceed the 66,667 lbs/hr. design rate by more than 10 percent' . . . appears to conflict with the rest of the condition and should either be removed from the permit or should specify an averaging time of one hour."

As an initial matter, EPA's statement that there "appears" to be a conflict is hardly determinative of whether a conflict actually exists. Further, the solutions posited by EPA—deletion of the problematic sentence or, in the alternative, a simple modification of averaging times in order to achieve consistency with the rest of permit—are not so significant as to support DEP's withdrawal of the entire permit. To the contrary, the suggestion solutions are the type of alteration which can readily be resolved through DEP's authority to make administrative permit condition corrections. Because the alterations would merely achieve consistency within the permit, they do not result in a significant, much less substantive, modification of Bay County' rights or obligations under the permit.[5] Indeed, the alterations are consistent with Bay County's understanding of its existing obligations under the permit and under the settlement reached with EPA. The fact that the permit needed to be administratively edited in order to clarify those obligations does not support DEP's decision to unilaterally "withdraw" the permit.

Eleventh Circuit Court of Appeals. Bay County disputes, therefore, DEP's authority to alter Bay County's permit based on EPA's untimely comments, except to the extent that those comments accurately reflect the settlement negotiated between EPA and Bay County which terminated Bay County's appeals before the Eleventh Circuit Court of Appeals or fall within DEP's authority to make administrative changes in the language of Bay County's permit.

[4] Although EPA submitted additional "significant" comments, none of those comments were referenced in DEP's May 8 decision letter in which DEP asserted its intention to "withdraw" Bay County's permit. Rather, the May 8 letter states that the permit "is hereby withdrawn, because it contains a specific condition that conflicts with the derating requirements for the facility." (emphasis in original).

[5] Interestingly, DEP's letter did not elaborate on the "significance" of the proposed change, or refer to the basis for DEP's authority to "withdraw" the permit.

In sum, it is Bay County's position that its Title V permit became final and effective on March 31, 2000, except to the extent that administrative corrections were made to the permit in response to discussions and agreement between DEP and Bay County. In light of EPA's continued interest in the terms of Bay County's permit, however, and given the apparent confusion on the part of EPA and DEP concerning the legal status of that permit, Bay County would welcome an opportunity to meet with DEP in order to resolve any remaining issues involving the permit. In addition, Bay County believes that such a meeting provides a useful opportunity for it to receive from DEP a copy of Bay County's permit which incorporates the changes involving derating agreed upon by it, DEP, and EPA. Finally, please note that Bay County does not, by this letter, waive any rights, arguments, or defenses it may have or may choose to assert with respect to its Title V permit.

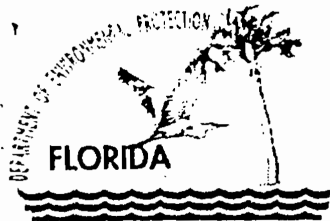
I look forward to hearing from you shortly in order to arrange a mutually convenient time for a meeting.

Sincerely,

Nevin J. Zimmerman

cc: Jon Mantay, County Manager
Charles A. Perry, Esq.
Skip Cook, Camp Dresser & McKee, Inc.

xc: Scott, Bruce, Tom



Department of Environmental Protection

Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

David B. Struhs
Secretary

May 8, 2000

Mr. R. Douglas Neeley, Chief
Air and Radiation Technology Branch
Air, Pesticides and Toxics Management Division
United States Environmental Protection Agency, Region 4
61 Forsyth Street
Atlanta, GA 30303

Re: PROPOSED Title V Permit No.: 0050031-002-AV
Bay Resource Management Center

Dear Mr. Neeley:

The subject permit for the Bay Resource Management Center was posted on to the Division of Air Resources Management's world wide web site for the United States Environmental Protection Agency (U.S.EPA) Region 4 office's review on March 31, 2000.

Based on comments provided by your agency, the PROPOSED Title V permit is hereby withdrawn, because it contains a specific condition that *conflicts with the derating requirements for the facility*. Because this is a significant change, a Revised DRAFT permit will be developed and issued as soon as possible.

Sincerely,

C. H. Fancy, P.E.
Chief
Bureau of Air Regulation

CHF/tbc

copy furnished to:

Mr. Jonathan A. Mantay
Mr. Ed Middleswart, P.E., FDEP, NWD
Mr. Gerald Joseph, P.E., DMG Environmental, Inc.
Mr. Nevin Zimmerman, Esq., Burke and Blue
Mr. James M. Leddy, Plant Manager

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
AIR, PESTICIDES & TOXICS MANAGEMENT DIVISION
61 Forsyth St., S. W.
Atlanta, Georgia 30303
Fax Number: 404/562-9095

Electronic Transmission

MEMORANDUM

DATE: April 17, 2000

SUBJ: Initial EPA Comments
Proposed Title V Permit for Bay Resource Management Center
Bay County, Florida
Permit No. 0050031-002-AV

FROM: Elizabeth K. Bartlett, Environmental Engineer
Operating Source Section, ARTB

TO: Scott Sheplak, FDEP - Tallahassee

Below are initial comments from EPA Region 4 on the above referenced source. Our comments are divided into two categories: 1) Significant Comments and 2) General Comments.
Significant comments are defined as those comments that would trigger an objection under
40 C.F.R. Part 70. Given that EPA has several significant comments on this proposed permit, we would like to attempt resolution of all issues in order to avoid a formal objection on this permit. If resolution of our significant comments is not achieved, EPA Region 4 will issue an objection to the proposed permit pursuant to 40 C.F.R. 70.8(c) on or before day-45 of the review period. For purposes of this permit review, day-45 is defined as May 15, 2000

Another option available to you is withdrawal of the proposed permit from EPA review. If you choose to utilize this option, you must submit to EPA a written request that the permit be withdrawn including a statement that a proposed permit will be

5-24-00

resubmitted for EPA review at a later date. Your written request to withdraw the proposed permit must be submitted to our office by no later than May 15, 2000.

Please note that our opportunity for review and comment on this permit does not prevent EPA from taking enforcement action for issues that have not been raised in these comments. After final issuance, this permit shall be reopened if EPA or the permitting authority determines that it must be revised or revoked to assure compliance with applicable requirements.

Please contact me as soon as possible regarding resolution of this matter. You may reach me at (404) 562-9122.

1) **<u>Significant Comments</u>**

a. <u>Averaging Times</u> - Condition A.3.1. limits the maximum steam flow rate to 66,667 lb/hr on a 4-hour block average basis, in order to maintain the charging rate to these units at or below the the 250 tons of MSW NSPS threshhold. However, the condition also states, "The maximum steam production shall not exceed the 66,667 lbs/hr design rate by more than 10 percent." This phrase appears to conflict with the rest of the condition and should either be removed from the permit or should specify an averaging time of one hour.

b. <u>Averaging Times</u> - The emission limits in conditions A.8 through A.19 do not contain averaging times. Because the stringency of emission limits is a function of both magnitude and averaging time, appropriate averaging times must be added to the permit in order for the limits to be practicably enforceable. An approach that may be used to address this deficiency is to include a general condition in the permit stating that the averaging times for all specified emission standards are tied to or based on the run time of the test method(s) used for determining compliance.

c. <u>Practical Enforceability</u> - The permit does not include proper record keeping requirements to assure compliance with several operational limitations. In order for emissions and operational limits to be enforceable as a practical matter, there must be a method of establishing compliance with those limits, such as testing, sampling, or record keeping. Therefore the record keeping section of the permit should contain conditions that require the source to maintain daily records of the following: the total tons of waste charged to each municipal waste combuster each day; charging rates of wood waste; charging rates of waste tires; charging rates of non-MSW material listed in condition A.5.1.8.

d. <u>Practical Enforceability</u> - Condition A.5.2.0 states that auxiliary fuel burners, fired with fuel oil or natural gas, will be used at startup during the introduction of MSW fuel until the design furnace gas temperature is achieved. Additionally, if the annual capacity value for distillate fuel oil or natural gas is greater than 10%, then the facility will be subject to 40 C.F.R. 60.44b, *Standards for Nitrogen Oxides*. However, the permit does not require the source to keep records of the amount of fuel oil or natural gas that is utilized. In order to make the 10% limit enforceable, the permit must require that the usage rates for fuel oil and natural gas be recorded. Also note that this condition should reference the annual capacity factor determination method from 60.43b(e), not (d).

e. Periodic Monitoring - The permit does not contain adequate periodic monitoring for particulate matter emissions from Unit Nos. 1 or 2. Although the source is required to conduct compliance tests for particulate matter under condition A.28, testing once per year is not sufficient to provide a reasonable assurance of compliance with emission limits set under condition A.8. All title V permits must contain monitoring that is sufficient to assure compliance with the applicable permit requirements. In particular, 40 C.F.R. Part 70.6 (a)(3)(B) requires that permits include periodic monitoring that is sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the applicable emission limits. In addition to demonstrating compliance, a system of periodic monitoring will also provide the source with an indication of their emission unit's performance, so that periods of excess emissions and violations of the emission limits can be minimized or avoided. Therefore, the permit should include a periodic monitoring scheme that will provide data which is representative of the source's actual performance.

One option would be to address particulate emissions through expanded opacity monitoring. The permit indicates that these units will be equipped with COMs to monitor opacity. Therefore, the facility could use the opacity data as an indicator of particulate emissions. In order to adequately use opacity as an indicator of particulate emissions, the facility should either provide historical data or conduct a performance test to establish an opacity threshold that would guarantee that particulate emissions remain within the specified limit. COM data could then be used for periodic monitoring of particulate matter, such that visible emissions which would continue to remain below the opacity threshold would indicate compliance with the particulate matter limit. If the opacity threshold was exceeded, then a performance test for particulate matter would be required.

Alternatively, since PM emissions are controlled with an electrostatic precipitator, another appropriate form of periodic monitoring for particulate matter would be to monitor certain parameters on the control equipment. Using this approach, a correlation would be developed between the control equipment parameter(s) to be monitored and particulate emission levels. The source would need to provide an adequate demonstration (historical data, performance test, etc.) to support use of this approach. In addition, an acceptable performance range for each monitored parameter would then be established. The range, or the

procedure used to establish the parametric ranges that are representative of proper operation of the control equipment, and the frequency for re-evaluating the range would also need to be specified in the permit. Finally, under this alternative, the permit would include a condition requiring a performance test to be conducted if an emission unit operates outside of the acceptable range for any monitoring parameter.

f. Periodic Monitoring - The permit does not contain adequate periodic monitoring for NO_x, SO_2, or VOC emissions from Unit Nos. 1 or 2. Although the source is required to conduct annual compliance tests for these pollutants under conditions A.30, A.29, and A.33, respectively, testing once per year may not be not sufficient to provide a reasonable assurance of compliance with emission limits set under conditions A.11 for NO_x, A.10 for SO_2, or A.13 for VOC. The permit must require the source to conduct more frequent monitoring, or a technical demonstration, such as comparison of historical emission data to emission limits, must be included in the statement of basis explaining why the State has chosen not to require any additional testing for these pollutants. The demonstration needs to identify the rationale for basing the compliance certification of data from a test performed only once a year. For compliance with the VOC limit, a discussion of how carbon monoxide monitoring indicates good combustion, which affects VOC emissions, could be provided along with historical data to support the annual testing frequency.

With regard to NO_x and SO_2, monitoring frequency should be based on a comparison historical emissions should be compared with the emission limit

g. Federal Enforceability - Conditions A.32 and A.33 both specify EPA test methods used to "ensure compliance" with the associated emission limits. Such language precludes credible evidence for determining compliance and must be revised to specify that the test methods "determine compliance."

h. Federal Enforceability - Condition A.44 states the following:

> *"Compliance with standards in 40 C.F.R. 60, other than opacity standards, shall be determined **only** by performance tests established by 40 C.F.R. 60.8, unless specified in the applicable standard."*

The language for this condition was taken from 40 C.F.R. 60.11(a), however, the words "in accordance with" were replaced with "only by".

Since adding the word "only" precludes the use of credible evidence for determining compliance, this condition is not federally enforceable. Therefore, this condition should be changed so that it is consistent with 40 C.F.R. 60.11(a).

2) **General Comments**

a. Section II, Condition 4 - This condition addresses the requirements of CAA Section 112(r). Please review this condition to ensure that it is consistent with the model language developed by Wendy Alexander and presented at the September 1999 FDEP Annual Air Meeting.

b. Section II, Conditions 7.1. and 7.2. - Although these conditions are not federally enforceable, they should be written using enforceable language. For example, rather than saying that a road sweeper is used to clean the roadways and minimize emissions from paved roadways, the condition should say that a road sweeper *shall be* used to minimize emissions.

c. Section II, Condition 10 - 40 C.F.R. Part 70.6 (c)(5)(iii) lists the necessary components of a Title V compliance certification, and requires that those components be included in Title V permits. However, Facility-Wide Condition # 10 of this permit does not specify that the source submit compliance certifications to EPA that contain those required components. This portion of the permit should specifically state that the source is required to submit compliance certifications consisting of the required components. Further, those required components should be listed in the permit.

In this case the list from 40 C.F.R. Part 70.6 (c)(5)(iii) is contained at Appendix TV-3. While it is sufficient to include the list in an Appendix to the permit, the required compliance certification components should at least be mentioned in the permit at the condition requiring the source to submit a Title V compliance certification to EPA. This will allow the requirement to be clear and enforceable. Therefore, Facility-Wide Condition # 10 of the permit should mention the required components listed at 40 C.F.R. Part 70.6 (c)(5)(iii), and reference the list contained at Appendix TV-3.

Additionally, the permit does not contain the date by which the annual compliance certification should be submitted to EPA. The annual due date for the compliance certification should be included in the permit so that the compliance requirement is clear to not only the permittee, but also any

regulating agencies, as well as the public. The compliance date may be explicitly stated (i.e. annually on October 1), or be based upon some other methodology (i.e. annually on the anniversary date of permit issuance, by the end of the first quarter following the anniversary date of permit issuance, etc.).

e. Section III, Subsection A. - The regulatory cite under the initial permitting note should be corrected to reference 62-204.800(7)5. This note mistakenly cites the continental shelf air regulations, which do not appear to apply to this facility.

f. Section III, Condition A.3.1 - Condition A.3.1 limits the maximum charging rate of municipal solid waste into the two municipal waste combustion units, as well as the average steam flow rate. The condition further states that in order to determine compliance with these limits, a steam flow meter shall be calibrated, maintained, and operated to measure steam flow in kilograms per hour (pounds per hour). However, this condition is unclear. It is unclear whether the permit is requiring the source to measure the steam flow in kilograms per hour, pounds per hour or both. Since the limit is expressed in units of pounds per hour, it seems reasonable to measure the steam flow rate in units of pounds per hour. Please clarify this inconsistency in the permit.

g. Section III, Conditions, A.5.1.1., A.5.1.3., A.5.1.4., A.5.1.5., A.5.1.6., A.5.1.7., A.5.1.8. - Condition A.5.1.1 states that the only fuels allowed to be burned in the MWCs is municipal solid waste, with wood waste as auxiliary fuel unless written prior approval is granted by the Department. Conditions A.5.1.3 through A.5.1.8 contain provisions that allow the source to combust non-MSW material. It is unclear whether the facility is required to obtain permission before burning these non-MSW materials per A.5.1.1. If department approval is required for the materials listed in A.5.1.3 through A.5.1 8., then these conditions should be clarified to reference required approval under A.5.1.1. Please resolve this inconsistency.

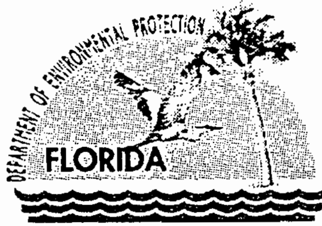
h. Section III, Condition A.17 - The exponents for the emission limits appear to be missing from the electronic version downloaded for review. Please ensure that the correct limits are in the permit.

i. Section III, Conditions A.22 and A.23 - These conditions address the occurrence of excess emissions from all emission units. More specifically, excess emission resulting from malfunction are permitted provided that

best operational practices to minimize emission are adhered to and the duration of excess emissions are minimized. EPA has recently addressed the issue of excess emissions in a September 20, 1999, policy memorandum from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance and Robert Perciasepe, Assistant Administrator for Air and Radiation. The September 20, 1999, memo reaffirms and supplements the EPA's original policy regarding excess emissions during malfunction, startup, shutdown, and maintenance, which is contained in memoranda from Kathleen Bennett, formerly Assistant Administrator for Air, Noise and Radiation dated September 28, 1982, and February 15, 1983. The permit conditions that address excess emissions should be consistent with EPA's policy.

j. Section III, Conditions A.28 and A.41(b) - Condition A.28 specifies use of Methods 5 or 17 to demonstrate compliance with the particulate matter emission limit. However, 40 C.F.R. § 60.54(b)(2) specifically requires the use of Method 5. This regulation also specifies a minimum sample volume of 30 dry standard cubic feet, while condition A.41(b) only requires a 25 dry standard cubic foot sample volume. Please ensure that these requirements are specified in the permit.

k. Appendix I-1 - This appendix lists a cooling tower as one of the insignificant emission units at the site. *40 C.F.R. 63 Subpart 0 - National Emission Standards for Hazardous Air Pollutants for Industrial Cooling Towers* applies to this unit if the industrial cooling tower is operated with chromium based water treatment chemicals on or after September 8, 1994. Please provide additional information to confirm that these units are not subject to MACT standards for these sources.



Department of Environmental Protection

Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

David B. Struhs
Secretary

May 8, 2000

Mr. R. Douglas Neeley, Chief
Air and Radiation Technology Branch
Air, Pesticides and Toxics Management Division
United States Environmental Protection Agency, Region 4
61 Forsyth Street
Atlanta, GA 30303

Re: PROPOSED Title V Permit No.: 0050031-002-AV
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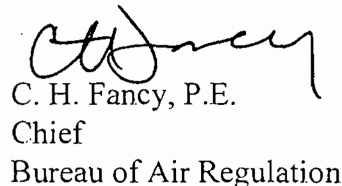
Sincerely,



C. H. Fancy, P.E.
Chief
Bureau of Air Regulation

CHF/tbc

copy furnished to:

Mr. Jonathan A. Mantay
Mr. Ed Middleswart, P.E., FDEP, NWD
Mr. Gerald Joseph, P.E., DMG Environmental, Inc.
Mr. Nevin Zimmerman, Esq., Burke and Blue
Mr. James M. Leddy, Plant Manager

5/17/00 cc: Reading File
Tom Cascio

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
AIR, PESTICIDES & TOXICS MANAGEMENT DIVISION
61 Forsyth St., S. W.
Atlanta, Georgia 30303
Fax Number: 404/562-9095

Electronic Transmission

MEMORANDUM

DATE: April 17, 2000

SUBJ: Initial EPA Comments
Proposed Title V Permit for Bay Resource Management Center
Bay County, Florida
Permit No. 0050031-002-AV

FROM: Elizabeth K. Bartlett, Environmental Engineer
Operating Source Section, ARTB

TO: Scott Sheplak, FDEP - Tallahassee

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resubmitted for EPA review at a later date. Your written request to withdraw the proposed permit must be submitted to our office by no later than May 15, 2000.

Please note that our opportunity for review and comment on this permit does not prevent EPA from taking enforcement action for issues that have not been raised in these comments. After final issuance, this permit shall be reopened if EPA or the permitting authority determines that it must be revised or revoked to assure compliance with applicable requirements.

Please contact me as soon as possible regarding resolution of this matter. You may reach me at (404) 562-9122.

1) Significant Comments

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c. Practical Enforceability - The permit does not include proper record keeping requirements to assure compliance with several operational limitations. In order for emissions and operational limits to be enforceable as a practical matter, there must be a method of establishing compliance with those limits, such as testing, sampling, or record keeping. Therefore the record keeping section of the permit should contain conditions that require the source to maintain daily records of the following: the total tons of waste charged to each municipal waste combuster each day; charging rates of wood waste; charging rates of waste tires; charging rates of non-MSW material listed in condition A.5.1.8.

d. Practical Enforceability - Condition A.5.2.0 states that auxiliary fuel burners, fired with fuel oil or natural gas, will be used at startup during the introduction of MSW fuel until the design furnace gas temperature is achieved. Additionally, if the annual capacity value for distillate fuel oil or natural gas is greater than 10%, then the facility will be subject to 40 C.F.R. 60.44b, *Standards for Nitrogen Oxides*. However, the permit does not require the source to keep records of the amount of fuel oil or natural gas that is utilized. In order to make the 10% limit enforceable, the permit must require that the usage rates for fuel oil and natural gas be recorded. Also note that this condition should reference the annual capacity factor determination method from 60.43b(e), not (d).

e. Periodic Monitoring - The permit does not contain adequate periodic monitoring for particulate matter emissions from Unit Nos. 1 or 2. Although the source is required to conduct compliance tests for particulate matter under condition A.28, testing once per year is not sufficient to provide a reasonable assurance of compliance with emission limits set under condition A.8. All title V permits must contain monitoring that is sufficient to assure compliance with the applicable permit requirements. In particular, 40 C.F.R. Part 70.6 (a)(3)(B) requires that permits include periodic monitoring that is sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the applicable emission limits. In addition to demonstrating compliance, a system of periodic monitoring will also provide the source with an indication of their emission unit's performance, so that periods of excess emissions and violations of the emission limits can be minimized or avoided. Therefore, the permit should include a periodic monitoring scheme that will provide data which is representative of the source's actual performance.

One option would be to address particulate emissions through expanded opacity monitoring. The permit indicates that these units will be equipped with COMs to monitor opacity. Therefore, the facility could use the opacity data as an indicator of particulate emissions. In order to adequately use opacity as an indicator of particulate emissions, the facility should either provide historical data or conduct a performance test to establish an opacity threshold that would guarantee that particulate emissions remain within the specified limit. COM data could then be used for periodic monitoring of particulate matter, such that visible emissions which would continue to remain below the opacity threshold would indicate compliance with the particulate matter limit. If the opacity threshold was exceeded, then a performance test for particulate matter would be required.

Alternatively, since PM emissions are controlled with an electrostatic precipitator, another appropriate form of periodic monitoring for particulate matter would be to monitor certain parameters on the control equipment. Using this approach, a correlation would be developed between the control equipment parameter(s) to be monitored and particulate emission levels. The source would need to provide an adequate demonstration (historical data, performance test, etc.) to support use of this approach. In addition, an acceptable performance range for each monitored parameter would then be established. The range, or the

procedure used to establish the parametric ranges that are representative of proper operation of the control equipment, and the frequency for re-evaluating the range would also need to be specified in the permit. Finally, under this alternative, the permit would include a condition requiring a performance test to be conducted if an emission unit operates outside of the acceptable range for any monitoring parameter.

f. <u>Periodic Monitoring</u> - The permit does not contain adequate periodic monitoring for NO_x, SO_2, or VOC emissions from Unit Nos. 1 or 2. Although the source is required to conduct annual compliance tests for these pollutants under conditions A.30, A.29, and A.33, respectively, testing once per year may not be not sufficient to provide a reasonable assurance of compliance with emission limits set under conditions A.11 for NO_x, A.10 for SO_2, or A.13 for VOC. The permit must require the source to conduct more frequent monitoring, or a technical demonstration, such as comparison of historical emission data to emission limits, must be included in the statement of basis explaining why the State has chosen not to require any additional testing for these pollutants. The demonstration needs to identify the rationale for basing the compliance certification of data from a test performed only once a year. For compliance with the VOC limit, a discussion of how carbon monoxide monitoring indicates good combustion, which affects VOC emissions, could be provided along with historical data to support the annual testing frequency.

With regard to NO_x and SO_2, monitoring frequency should be based on a comparison historical emissions should be compared with the emission limit

g. <u>Federal Enforceability</u> - Conditions A.32 and A.33 both specify EPA test methods used to "ensure compliance" with the associated emission limits. Such language precludes credible evidence for determining compliance and must be revised to specify that the test methods "determine compliance."

h. <u>Federal Enforceability</u> - Condition A.44 states the following:

> *"Compliance with standards in 40 C.F.R. 60, other than opacity standards, shall be determined **only** by performance tests established by 40 C.F.R. 60.8, unless specified in the applicable standard."*

The language for this condition was taken from 40 C.F.R. 60.11(a), however, the words "in accordance with" were replaced with "only by".

Since adding the word "only" precludes the use of credible evidence for determining compliance, this condition is not federally enforceable. Therefore, this condition should be changed so that it is consistent with 40 C.F.R. 60.11(a).

2) **General Comments**

a. Section II, Condition 4 - This condition addresses the requirements of CAA Section 112(r). Please review this condition to ensure that it is consistent with the model language developed by Wendy Alexander and presented at the September 1999 FDEP Annual Air Meeting.

b. Section II, Conditions 7.1. and 7.2. - Although these conditions are not federally enforceable, they should be written using enforceable language. For example, rather than saying that a road sweeper is used to clean the roadways and minimize emissions from paved roadways, the condition should say that a road sweeper *shall be* used to minimize emissions.

c. Section II, Condition 10 - 40 C.F.R. Part 70.6 (c)(5)(iii) lists the necessary components of a Title V compliance certification, and requires that those components be included in Title V permits. However, Facility-Wide Condition # 10 of this permit does not specify that the source submit compliance certifications to EPA that contain those required components. This portion of the permit should specifically state that the source is required to submit compliance certifications consisting of the required components. Further, those required components should be listed in the permit.

In this case the list from 40 C.F.R. Part 70.6 (c)(5)(iii) is contained at Appendix TV-3. While it is sufficient to include the list in an Appendix to the permit, the required compliance certification components should at least be mentioned in the permit at the condition requiring the source to submit a Title V compliance certification to EPA. This will allow the requirement to be clear and enforceable. Therefore, Facility-Wide Condition # 10 of the permit should mention the required components listed at 40 C.F.R. Part 70.6 (c)(5)(iii), and reference the list contained at Appendix TV-3.

Additionally, the permit does not contain the date by which the annual compliance certification should be submitted to EPA. The annual due date for the compliance certification should be included in the permit so that the compliance requirement is clear to not only the permittee, but also any

regulating agencies, as well as the public. The compliance date may be explicitly stated (i.e. annually on October 1), or be based upon some other methodology (i.e. annually on the anniversary date of permit issuance, by the end of the first quarter following the anniversary date of permit issuance, etc.).

e. Section III, Subsection A. - The regulatory cite under the initial permitting note should be corrected to reference 62-204.800(7)5. This note mistakenly cites the continental shelf air regulations, which do not appear to apply to this facility.

f. Section III, Condition A.3.1 - Condition A.3.1 limits the maximum charging rate of municipal solid waste into the two municipal waste combustion units, as well as the average steam flow rate. The condition further states that in order to determine compliance with these limits, a steam flow meter shall be calibrated, maintained, and operated to measure steam flow in kilograms per hour (pounds per hour). However, this condition is unclear. It is unclear whether the permit is requiring the source to measure the steam flow in kilograms per hour, pounds per hour or both. Since the limit is expressed in units of pounds per hour, it seems reasonable to measure the steam flow rate in units of pounds per hour. Please clarify this inconsistency in the permit.

g. Section III, Conditions, A.5.1.1., A.5.1.3., A.5.1.4., A.5.1.5., A.5.1.6., A.5.1.7., A.5.1.8. - Condition A.5.1.1 states that the only fuels allowed to be burned in the MWCs is municipal solid waste, with wood waste as auxiliary fuel unless written prior approval is granted by the Department. Conditions A.5.1.3 through A.5.1.8 contain provisions that allow the source to combust non-MSW material. It is unclear whether the facility is required to obtain permission before burning these non-MSW materials per A.5.1.1. If department approval is required for the materials listed in A.5.1.3 through A.5.1 8., then these conditions should be clarified to reference required approval under A.5.1.1. Please resolve this inconsistency.

h. Section III, Condition A.17 - The exponents for the emission limits appear to be missing from the electronic version downloaded for review. Please ensure that the correct limits are in the permit.

i. Section III, Conditions A.22 and A.23 - These conditions address the occurrence of excess emissions from all emission units. More specifically, excess emission resulting from malfunction are permitted provided that

best operational practices to minimize emission are adhered to and the duration of excess emissions are minimized. EPA has recently addressed the issue of excess emissions in a September 20, 1999, policy memorandum from Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance and Robert Perciasepe, Assistant Administrator for Air and Radiation. The September 20, 1999, memo reaffirms and supplements the EPA's original policy regarding excess emissions during malfunction, startup, shutdown, and maintenance, which is contained in memoranda from Kathleen Bennett, formerly Assistant Administrator for Air, Noise and Radiation dated September 28, 1982, and February 15, 1983. The permit conditions that address excess emissions should be consistent with EPA's policy.

j. <u>Section III, Conditions A.28 and A.41(b)</u> - Condition A.28 specifies use of Methods 5 or 17 to demonstrate compliance with the particulate matter emission limit. However, 40 C.F.R. § 60.54(b)(2) specifically requires the use of Method 5. This regulation also specifies a minimum sample volume of 30 dry standard cubic feet, while condition A.41(b) only requires a 25 dry standard cubic foot sample volume. Please ensure that these requirements are specified in the permit.

k. <u>Appendix I-1</u> - This appendix lists a cooling tower as one of the insignificant emission units at the site. *40 C.F.R. 63 Subpart 0 - National Emission Standards for Hazardous Air Pollutants for Industrial Cooling Towers* applies to this unit if the industrial cooling tower is operated with chromium based water treatment chemicals on or after September 8, 1994. Please provide additional information to confirm that these units are not subject to MACT standards for these sources.

RFC-822-headers:
Received: from epic5.dep.state.fl.us ([199.73.143.30])
 by mail.epic1.dep.state.fl.us (PMDF V5.2-33 #37976)
 with ESMTP id <01JOC9AOZWMA008OR8@mail.epic1.dep.state.fl.us>; Mon,
 17 Apr 2000 11:05:09 EST
Received: from merlin.rtpnc.epa.gov ([134.67.208.148])
 by mail.epic5.dep.state.fl.us (PMDF V5.2-33 #31508)
 with ESMTP id <01JOC9AM7VGI002KBY@mail.epic5.dep.state.fl.us>; Mon,
 17 Apr 2000 11:05:07 -0500 (EST)
Received: from ccmail.epamail.epa.gov by epamail.epa.gov (PMDF V5.1-12 #26438)
 id <0FT600K011RGFT@epamail.epa.gov>; Mon, 17 Apr 2000 11:04:26 -0400 (EDT)

INTEROFFICE MEMORANDUM

Date: 17-Apr-2000 11:05am
From: Bartlett.Elizabeth
Bartlett.Elizabeth@epamail.epa.gov
Dept:
Tel No:

To: See Below
Subject: Inital Comments on Bay County MWC Proposed permit

Comment letter - Word Perfect 8 format - is attached. Please contact me if you have questions or have trouble opening this file.

Elizabeth Bartlett
EPA Region 4
404.562.9122

Distribution:

To:	Scott.Sheplak	(Scott.Sheplak@dep.state.fl.us)
CC:	Bruce.Mitchell	(Bruce.Mitchell@dep.state.fl.us)
CC:	Tom.Cascio	(Tom.Cascio@dep.state.fl.us)
CC:	Danois.Gracy	(Danois.Gracy@epamail.epa.gov)
CC:	Kono.Michiko	(Kono.Michiko@epamail.epa.gov)
CC:	Davis.ScottR	(Davis.ScottR@epamail.epa.gov)
CC:	Huey.Joel	(Huey.Joel@epamail.epa.gov)
CC:	Worley.Gregg	(Worley.Gregg@epamail.epa.gov)

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF AIR RESOURCES MANAGEMENT
BUREAU OF AIR REGULATION
TITLE V SECTION
MAIL STATION #5505
2600 BLAIR STONE ROAD
TALLAHASSEE, FLORIDA 32399-2400

RECEIVED
MAR 29 2000
BUREAU OF AIR REGULATION

FILED VIA FACSIMILE 850-922-6979

BAY COUNTY, FLORIDA,

Petitioners,

v. PROPOSED PERMIT NO.: 0050031-002-AV

STATE OF FLORIDA,
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Respondent.

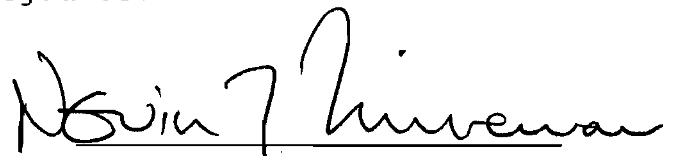
PETITIONER'S VOLUNTARY DISMISSAL OF
PETITION FOR ADMINISTRATIVE PROCEEDING

COMES NOW, Petitioner, BAY COUNTY, FLORIDA, as owner and permit holder for the Bay County Resource Management Center and voluntarily dismisses the Petition for Administrative Proceeding the in the above styled case and as grounds therefore states:

1. Petitioner and Respondent have reached an agreement regarding the language of Proposed Permit No. 0050031-002-AV.

2. Petitioner voluntarily dismisses its Petition for Administrative Proceeding without prejudice.

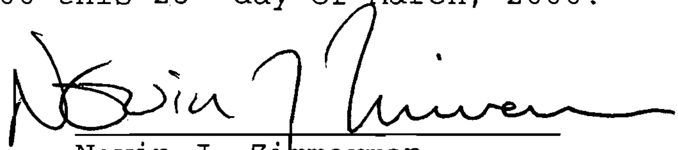
DATED: March 28, 2000.



Nevin J. Zimmerman
FL Bar No.:0287921
221 McKenzie Ave
Panama City, FL 32401
TEL.(850) 769-1414
FAX.(850) 784-0857
ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to, Martha Nebelsiek, Esq., Douglas Building, 3900 Commonwealth Blvd., Mail Station 35, Tallahassee, Florida 32399-3000 by U.S. Mail and facsimile (850) 921-3000 this 28th day of March, 2000.

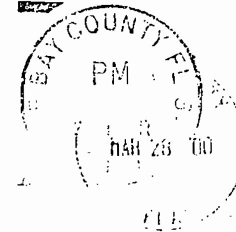


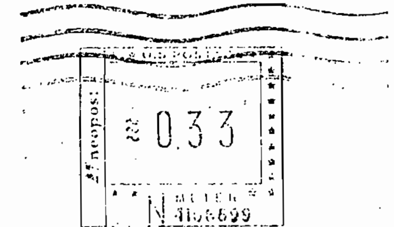
Nevin J. Zimmerman
221 McKenzie Avenue
Panama City, FL 32401
TEL.(850) 769-1414
FAX.(850) 784-0858
ATTORNEY FOR PETITIONER

x:\wpf\msb\dep incinerator*

BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE
COUNTY ATTORNEYS

221 McKENZIE AVENUE
POST OFFICE BOX 70
PANAMA CITY, FLORIDA 32402





Department of Environmental Protection
Division of Air Resources Management
Bureau of Air Regulation
title V Section
Mail Station #5505
2600 Blair Stone Road
Tallahassee, FL 32399-2400

32399+2400

File

February 18, 2000

Mr. Bruce Mitchell
Division of Air Resources Management
Florida Department of Environmental Protection
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: Bay Resource Management Center – Title V Permit

Dear Mr. Mitchell:

Bay County is the permittee and Title V applicant for the Bay Resource Management Center. On behalf of the County, Montenay, as operator of the facility is requesting a minor change in the Title V permit. Comments have already been submitted by the permittee, however, when submitting these comments we failed to request an amendment of the stated test method for metals. Conditions A34, A35, and A37 of the current draft of the Title V permit specify that testing for lead, mercury, and beryllium should be performed using Methods 12, 101A, and 104 respectively. We request that these conditions be amended to allow the use of Method 29 for each of these parameters.

We realize that the review of the permit by FDEP and EPA is nearing its conclusion and hope that the Department will be able to accommodate this request before issuance of the permit.

Please contact Bill Hudson at (850) 784 6129, or me at (305) 854 2229 if there are questions concerning this request

Sincerely,

D. Anetha Lue, P.E.
Environmental Coordinator

cc: Mr. Scott Sheplack - FDEP
Mr. William Hudson – Bay County Solid Waste Division
Mr. Gerry Gross – Montenay Bay

Tom Cascio 2/24/00 RBM
Ed Middleswort 2/24/00 RBM

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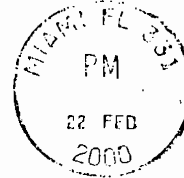
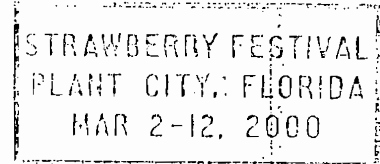
FEB 24 2000
BUREAU OF AIR REGULATION

MONTENAY INTERNATIONAL CORP.

3225 aviation avenue, 4th floor
miami, florida 33133





A

Mr. Bruce Mitchell
Division of Air Resources Management
Florida Department of Environmental Protection
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32399-2400

32399-6542 01

Office of the County Attorneys

Board of County Commissioners

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TELECOPY (850) 784-1573

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District V

February 16, 2000

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BUREAU OF AIR REGULATION

Department of Environmental Protection
Division of Air Resources Management
Bureau of Air Regulation
Title V Section
Mail Station #5505
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Re: Bay County, Florida vs. State of Florida, Department of Environmental Protection

Dear Sir or Madam:

Please find enclosed the original Petition for Administrative Proceeding for filing in the above-referenced case file. Should you have any questions, please merely advise.

Sincerely,

Michael S. Burke

NJZ/wgm

Enclosure

2/17/00 cc: Scott Sheplak
Tom Cascio

NJZ\CORR\DEP*

DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF AIR RESOURCES MANAGEMENT
BUREAU OF AIR REGULATION
TITLE V SECTION
MAIL STATION #5505
2600 BLAIR STONE ROAD
TALLAHASSEE, FLORIDA 32399-2400

FILED VIA FACSIMILE 850-922-6979

BAY COUNTY, FLORIDA,

Petitioners,

v. PROPOSED PERMIT NO.: 0050031-002-AV

STATE OF FLORIDA,
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Respondent.

PETITION FOR ADMINISTRATIVE PROCEEDING

COMES NOW, Petitioner, BAY COUNTY, FLORIDA, as owner and permit holder for the Bay County Resource Management Center and moves for an Administrative Proceeding pursuant to Section 120.57, Florida Statutes, and says:

1. The Petitioner's name is BAY COUNTY, FLORIDA and its address is 644 Mulberry Avenue, Panama City, Florida 32401 and its telephone number is (850) 784-4015. The Respondent's name is DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF AIR RESOURCES MANAGEMENT BUREAU OF AIR REGULATION TITLE V SECTION and its address is Mail Station #5505 2600 Blair Stone Road Tallahassee, Florida 32399-2400 and its telephone number is (850) 488-1344. The Proposed Permit Number is 0050031-002-AV. The project is proposed for Bay County, Florida.

2. The Petitioner, BAY COUNTY, FLORIDA, received notice by letter dated January 31, 2000, attached hereto as Exhibit A (without Enclosures).

3. The Petitioner's substantial interests are directly impacted by the Respondent's inclusion of the Permitting Note in A.3.2.9. In an e-mail sent to Nevin J. Zimmerman on November 2, 1999, attached hereto as Exhibit B, Tom Cascio indicated that the Draft Permit would reflect the deletion of Specific Condition A.3.2.3. The Specific Condition appears to have been deleted from the Proposed Permit; however, Specific Condition A.3.2.3 has been added as a Permitting Note in A.3.2.9. The Petitioner again requested the deletion of A.3.2.9, the Permitting Note and the reference to the EPA letter referred to in the Permitting Note in a letter dated February 10,2000, a copy of which is attached hereto as Exhibit C. A third party may assert that the Permitting Note is effectively a "death sentence" in that it would require closing the Bay County Resource Management Center if the provisions of A.3.2.9. are violated. The Bay County Resource Management Center is Bay County's primary method of solid waste disposal. Closure of the Bay County Resource Management Center would severely impact the disposal of solid waste in Bay County until such time as the Bay County Resource Management Center could be retrofitted to meet the requirements for a large MWC unit.

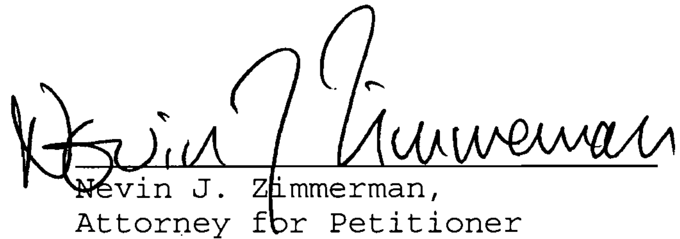
4. The facts presented in paragraph C. above are of such significance that the Respondent should remove A.3.2.9. and the

Permitting Note from the Proposed Permit No.: 0050031-002-AV.

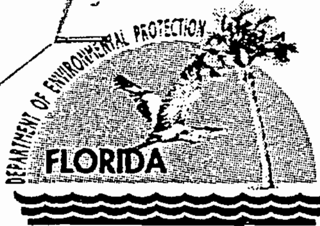
5. The Petitioner requests that the Respondent remove A.3.2.9 and the Permitting Note from the Proposed Permit No.: 0050031-002-AV.

WHEREFORE, the Petitioner, BAY COUNTY, FLORIDA, requests an Administrative Hearing pursuant to Section 120.57, Florida Statutes.

Dated: February 14, 2000.



Nevin J. Zimmerman,
Attorney for Petitioner



Department of Environmental Protection

Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

David B. Struhs
Secretary

January 31, 2000

Mr. Jonathan A. Mantay
Bay County Administrator
310 West 6th Street
Panama City, Florida 32401

Re: PROPOSED Title V Permit No.: 0050031-002-AV
Bay Resource Management Center

Dear Mr. Mantay:

One copy of the "PROPOSED PERMIT DETERMINATION" for the Bay Resource Management Center located at 6510 Bay Line Drive, Panama City, Bay County, Bay Industrial Park -- approximately 2 miles North of the intersection of U.S. 231 and County Road 2301, is enclosed. This letter is only a courtesy to inform you that the DRAFT permit has become a PROPOSED permit. An electronic version of this determination has been posted on the Division of Air Resources Management's world wide web site for the United States Environmental Protection Agency (USEPA) Region 4 office's review. The web site address is *http://www2.dep.state.fl.us/air.*

Pursuant to Section 403.0872(6), Florida Statutes, if no objection to the PROPOSED permit is made by the USEPA within 45 days, the PROPOSED permit will become a FINAL permit no later than 55 days after the date on which the PROPOSED permit was mailed (posted) to USEPA. If USEPA has an objection to the PROPOSED permit, the FINAL permit will not be issued until the permitting authority receives written notice that the objection is resolved or withdrawn. If you have any questions, please contact Tom Cascio at 850/921-9526.

Sincerely,

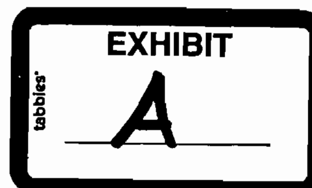
C. H. Fancy, P.E.
Chief
Bureau of Air Regulation

CHF/tbc

Enclosures

copy furnished to:

Mr. Nevin Zimmerman, Esq., Burke and Blue
Mr. James M. Leddy, Plant Manager
Mr. Gerald Joseph, P.E., DMG Environmental, Inc.
Mr. Ed Middleswart, P.E., FDEP, NWD
Mr. Gary Shaffer, FDEP, NWD Branch Office
U.S. EPA, Region 4 (INTERNET E-mail Memorandum)



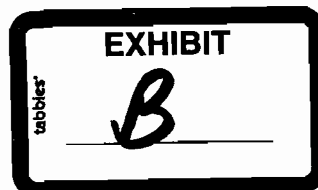
From: Tom Cascio TAL 850/488-1344 <Tom.Cascio@dep.state.fl.us>
To: Burke_&_Blue_GW_Domain.B&B(NEVIN)
Date: Tue, Nov 2, 1999 8:47 AM
Subject: BAY COUNTY DRAFT PERMIT

Mr. Zimmerman:

As discussed with Scott Sheplak this morning, the PROPOSED Title V Permit for the Bay County Resource Recovery Facility will reflect the following changes to the DRAFT Permit:
1. Specific Condition A.3.2.3. will be deleted.
2. Specific Condition A.5.1.6. will be deleted.
3. We will add distillate fuel oil as an allowable fuel in Specific Condition A.5.1.1.
4. We will replace the reference to "pit" with "tipping floor" in Specific Condition A.5.1.4.

Note: Unfortunately, we did not discuss Specific Condition A.70. We're checking with Michael Hewett for an assessment. So, as for now, plans are to include it in the PROPOSED Permit.

Tom Cascio



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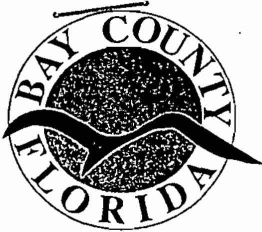

OFFICE OF THE COUNTY ATTORNEYS

February 10, 2000
VIA FACSIMILE (850) 922-6979

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ROBERT WRIGHT
DISTRICT III

DANNY SPARKS
DISTRICT IV

MARC NOLEN
DISTRICT V

Tom Cascio
Department of Environmental Protection
Mail Station #5505
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Re: Proposed Title V Permit No.: 0050031-00-AV (Bay County Air Permit)

Dear Tom:

Attached are three pages from the proposed Bay County Air Permit that show our proposed changes.

1. Deletion of Note and reference to EPA letter on page 7 underneath A.3.2.9. We had an understanding we FDEP and EPA that the topic of "what happens if the Facility exceeds 250 tons per day" was not going to be in the permit as either a permit condition or a note. The EPA memorandum you sent to me from Scott Davis clearly states that this topic should ***not*** be discussed in the permit. We request that the note and reference to the EPA letter be deleted.

2. Change "90" on line two of A.39 (page 14) to "80" to be consistent with other provisions in the permit.

3. Add the words ""(steam flow)" in A.70 after the words "charging rates" to clearly define the term "charging rates."

Thank you for your immediate attention to this. We are hopeful that these issues (primarily issue number 1) can be resolved quickly.

Sincerely,

Nevin J. Zimmerman

NJZ/wgm

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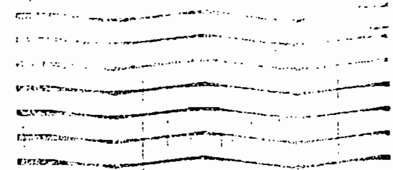
PANAMA CITY, FLORIDA 32402



Department of Environmental Protection
Division of Air Resources Management
Bureau of Air Regulation
Title V Section
Mail Station #5505
2600 Blair Stone Road
Tallahassee, FL 32399-2400

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February 10, 2000
VIA FACSIMILE (850) 922-6979

RECEIVED
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BUREAU OF AIR REGULATION

Tom Cascio
Department of Environmental Protection
Mail Station #5505
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

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Nevin J. Zimmerman

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2/16/00 cc - Tom Cascio

Enclosure

cc: Charles (Skip) E. Cook
Charles Perry
Bill Hudson

15. Data on the types and amounts of any chemical solutions used.
16. Data on the amount of pollutant collected from each sampling probe, the filters, and the impingers, are reported separately for the compliance test.
17. The names of individuals who furnished the process variable data, conducted the test, analyzed the samples and prepared the report.
18. All measured and calculated data required to be determined by each applicable test procedure for each run.
19. The detailed calculations for one run that relate the collected data to the calculated emission rate.
20. The applicable emission standard, and the resulting maximum allowable emission rate for the emissions unit, plus the test result in the same form and unit of measure.
21. A certification that, to the knowledge of the owner or his authorized agent, all data submitted are true and correct. When a compliance test is conducted for the Department or its agent, the person who conducts the test shall provide the certification with respect to the test procedures used. The owner or his authorized agent shall certify that all data required and provided to the person conducting the test are true and correct to his knowledge.
[Rule 62-297.310(8), F.A.C.]

A.70. Monitoring of Operations.
The owner or operator of any incinerator subject to the provisions of 40 CFR 60.53 shall record the daily charging rates and hours of operation.
[40 CFR 60.53]
(steam flow)

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A.3.2.9. Any 4-hour block arithmetic average steam flow rate in excess of 66,667 lbs/hr for each unit must be reported within seven calendar days to the Department and U.S. EPA, Region 4.

{Permitting note: If the facility exceeds the steam output level corresponding to 250 tons per day (equivalent to a steam flow of 66,667 lbs/hr over any 4-hour block arithmetic averaging period for each unit) after completing the modification to the forced draft fan wheel, the facility will be required to be in compliance with all applicable federal and state MWC requirements for large MWC units on schedule.}

[Letter from U.S. EPA, Region 4, dated 9/30/99, approving derating of the MWC units]

A.4. Emissions Unit Operating Rate Limitation After Testing. See Specific Condition **A.39.**
[Rule 62-297.310(2), F.A.C.]

A.5.0.0. Methods of Operation.

A.5.1.0. Fuels.

A.5.1.1. The only fuels allowed to be burned in the MWCs are municipal solid waste and wood waste, with distillate fuel oil as an auxiliary fuel. Other wastes shall not be burned without written prior approval from the Department. The wood waste utilization rate shall not exceed 160 tons per day for the facility. Wood waste shall be used when sufficient MSW is not available to maintain a steady heat rate.
[PSD-FL-129]

A.5.1.2. The primary fuel for the facility is municipal solid waste (MSW), including the items and materials that fit within the definition of MSW contained in either 40 CFR 60.51b or Section 403.706(5), Florida Statutes (1995).
[Rule 62-4.070(3), F.A.C.]

A.5.1.3. Subject to the limitations contained in this permit, the authorized fuels for the facility also include the other solid wastes that are not MSW which are described below. However, the facility shall not burn:

(a) those materials that are prohibited by state or federal law;
(b) those materials that are prohibited by this permit;
(c) lead acid batteries;
(d) hazardous waste;
(e) nuclear waste;
(f) radioactive waste;
(g) sewage sludge;
(h) explosives.

[Rules 62-4.070(3), 62-213.410, and 62-213.440, F.A.C.]

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A.35. Mercury. Compliance with the standards for mercury shall be determined by testing using EPA Method 101A on an annual basis.
[PSD-FL-129]

A.36. Fluorides. EPA Method 13B shall be used to ensure compliance on a once per five-year basis for permit renewal.
[PSD-FL-129]

A.37. Beryllium. EPA Method 104 shall be used to ensure compliance on an annual basis.
[PSD-FL-129]

A.38. Required Number of Test Runs. For mass emission limitations, a compliance test shall consist of three complete and separate determinations of the total air pollutant emission rate through the test section of the stack or duct and three complete and separate determinations of any applicable process variables corresponding to the three distinct time periods during which the stack emission rate was measured provided, however, that three complete and separate determinations shall not be required if the process variables are not subject to variation during a compliance test, or if three determinations are not necessary in order to calculate the unit's emission rate. The three required test runs shall be completed within one consecutive five day period. In the event that a sample is lost or one of the three runs must be discontinued because of circumstances beyond the control of the owner or operator, and a valid third run cannot be obtained within the five day period allowed for the test, the Secretary or his or her designee may accept the results of the two complete runs as proof of compliance, provided that the arithmetic mean of the results of the two complete runs is at least 20 percent below the allowable emission limiting standards.
[Rule 62-297.310(1), F.A.C.]

A.39. Operating Rate During Testing. Testing of emissions shall be conducted with the emissions unit operation at permitted capacity, which is defined as ~~90~~ 80 to 100 percent of the maximum operation rate allowed by the permit. If it is impracticable to test at permitted capacity, an emissions unit may be tested at less than the minimum permitted capacity; in this case, subsequent emissions unit operation is limited to 110 percent of the test load until a new test is conducted. Once the emissions unit is so limited, operation at higher capacities is allowed for no more than 15 consecutive days for the purpose of additional compliance testing to regain the authority to operate at the permitted capacity.
[Rules 62-297.310(2) & (2)(b), F.A.C.]

A.40. Calculation of Emission Rate. The indicated emission rate or concentration shall be the arithmetic average of the emission rate or concentration determined by each of the three separate test runs unless otherwise specified in a particular test method or applicable rule.
[Rule 62-297.310(3), F.A.C.]

A.41. Applicable Test Procedures.
(a) Required Sampling Time.
1. Unless otherwise specified in the applicable rule, the required sampling time for each test run shall be no less than one hour and no greater than four hours, and the sampling time at each sampling point shall be of equal intervals of at least two minutes.
2. Opacity Compliance Tests. When either EPA Method 9 or DEP Method 9 is specified as the applicable opacity test method, the required minimum period of observation for a compliance test

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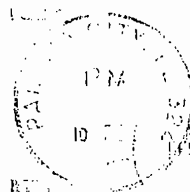
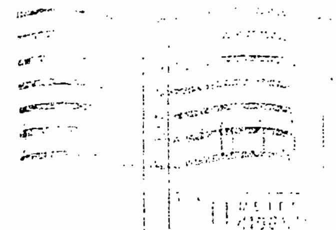

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