

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CITY OF COCONUT CREEK,

Petitioners,

vs.

OGC Case No. 01-1461  
FDEP File No. 0112545-001-AC  
(PSD-FL-316)

STATE OF FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

and

BROWARD BEACH ENERGY CENTER, L.L.C.  
(AN AFFILIATE OF EL PASO MERCHANT  
ENERGY COMPANY),

Respondents.

NOTICE OF APPEARANCE

Please take notice that the undersigned law firm will appear as counsel for Respondent Broward Beach Energy Center, L.L.C. (an affiliate of El Paso Merchant Energy Company). Counsel requests that copies of pleadings and other correspondence be provided to the undersigned at the indicated address.

Respectfully submitted this 18<sup>th</sup> day of September, 2001.



Lawrence E. Sellers, Jr.  
Florida Bar No. 300241  
HOLLAND & KNIGHT LLP  
Post Office Drawer 810  
315 S. Calhoun Street, Suite 600  
Tallahassee, Florida 32301  
(850) 425-5671  
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Attorneys for  
Broward Beach Energy Center, L.L.C.  
(an affiliate of El Paso Merchant Energy Company)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail, postage prepaid, to Nancy A. Cousins, Assistant City Attorney, City of Coconut Creek, 4800 West Copans Road, Coconut Creek, Florida 33063; and to Martha Nebelsiek, Florida Department of Environmental Protection, Office of the General Counsel, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000; all on this 18<sup>th</sup> day of September, 2001.



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Lawrence E. Sellers, Jr.

TAL1 #240669 v1

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CITY OF CORAL SPRINGS,

Petitioners,

vs.

OGC Case No. 01-1463  
FDEP File No. 0112545-001-AC  
(PSD-FL-316)

STATE OF FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

and

BROWARD BEACH ENERGY CENTER, L.L.C.  
(AN AFFILIATE OF EL PASO MERCHANT  
ENERGY COMPANY),

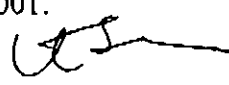
Respondents.

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NOTICE OF APPEARANCE

Please take notice that the undersigned law firm will appear as counsel for Respondent Broward Beach Energy Center, L.L.C. (an affiliate of El Paso Merchant Energy Company). Counsel requests that copies of pleadings and other correspondence be provided to the undersigned at the indicated address.

Respectfully submitted this 18<sup>th</sup> day of September, 2001.

  
\_\_\_\_\_  
Lawrence E. Sellers, Jr.  
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Attorneys for  
Broward Beach Energy Center, L.L.C.  
(an affiliate of El Paso Merchant Energy Company)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail, postage prepaid, to Samuel S. Goren, City Attorney, and John J. Hearn, Assistant City Attorney, City of Coral Springs, 9551 West Sample Road, Coral Springs, Florida 33065; and to Martha Nebelsiek, Florida Department of Environmental Protection, Office of the General Counsel, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000; all on this 18<sup>th</sup> day of September, 2001.



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Lawrence E. Sellers, Jr.

TALI #240670 v1

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CITY OF MARGATE,

Petitioners,

vs.

OGC Case No. 01-1477  
FDEP File No. 0112545-001-AC  
(PSD-FL-316)

STATE OF FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION

and

BROWARD BEACH ENERGY CENTER, L.L.C.  
(AN AFFILIATE OF EL PASO MERCHANT  
ENERGY COMPANY),

Respondents.

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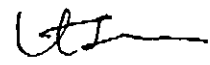
SEP 21 2001

BUREAU OF AIR REGULATION

NOTICE OF APPEARANCE

Please take notice that the undersigned law firm will appear as counsel for Respondent Broward Beach Energy Center, L.L.C. (an affiliate of El Paso Merchant Energy Company). Counsel requests that copies of pleadings and other correspondence be provided to the undersigned at the indicated address.

Respectfully submitted this 18<sup>th</sup> day of September, 2001.

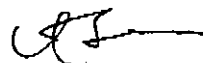


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Attorneys for  
Broward Beach Energy Center, L.L.C.  
(an affiliate of El Paso Merchant Energy Company)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U. S. Mail, postage prepaid, to Eugene M. Steinfeld, City Attorney, City of Margate, 5790 Margate Boulevard, Margate, Florida 33063; and to Martha Nebelsiek, Florida Department of Environmental Protection, Office of the General Counsel, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000; all on this 18<sup>th</sup> day of September, 2001.



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Lawrence E. Sellers, Jr.

TAL1 #240665 v1

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CITY OF COCONUT CREEK

Petitioner,

v.

DEP File No. 00112545-001-AC  
(PSD-FL-316)

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

and

BROWARD BEACH ENERGY  
(AN AFFILIATE OF EL PASO MERCHANT  
ENERGY COMPANY)

Respondents.

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**CITY OF COCONUT CREEK'S REQUEST FOR EXTENSION OF TIME TO  
FILE A PETITION FOR FORMAL ADMINISTRATIVE HEARING**

Petitioner, City of Coconut Creek, ("City"), hereby requests an extension of time to file a petition for formal administrative hearing, pursuant to Section 120.569, Florida Statutes, and Rule 28-106.111, Florida Administrative Code, and states the following:

1. Petitioner is a municipal corporation that is vested with the authority and duty to protect the public health, safety, and welfare of the citizens of Coconut Creek, which is immediately adjacent to the electrical generating plant proposed by Broward Beach Energy, an affiliate of El Paso Merchant Energy Company. The City is a substantially affected party with standing to challenge the proposed issuance of the Draft Air Construction Permit, DEP File No. 0112545-001-AC (PSD-FL-316), particularly on account of the capacity of the subject installation to discharge such types and quantities of pollutants as to jeopardize or compromise the health, safety, and welfare of the City's citizens.

2. The City received a copy of the Intent to Issue the draft permit by certified mail on August 20, 2001, and needs additional time to review the draft permit, which is quite lengthy and detailed.

3. The City's City Commission next regularly scheduled meeting is September 13, 2001, which is past the City's deadline for filing a petition for formal administrative hearing. The City Commission lacks the necessary time to make an informed decision. Additional time is needed so that the City Commissioners have the benefit of a thorough presentation of objective facts and analysis by its staff before making a thoughtful decision of whether to contest, defend, submit comments, or take no action with respect to the draft permit.

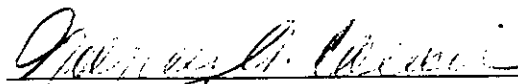
4. The City's expert witnesses have not had sufficient time to review the draft permit.

5. Therefore, the City requests a thirty (30) day extension of time, up to and including September 30, 2001, for which to file a petition for formal administrative hearing.

6. The undersigned attorney for the City has consulted with the attorney for the State of Florida Department of Environmental Protection, who has no objection to the extension. The undersigned attorney unsuccessfully attempted to contact the attorney for Broward Beach Energy, an affiliate of El Paso Merchant Energy Company prior to filing this request, and does not know if he would consent to the granting of this extension request.

WHEREFORE, Petitioner, City of Coconut Creek, pursuant to Rule 28-106.111, Florida Administrative Code, requests an extension of time up through September 30, 2001, to file a petition for formal administrative hearing with respect to the Notice of Intent to Issue Air Construction Permit.

Respectfully submitted this 31<sup>st</sup> day of August, 2001.

  
Nancy A. Cousins  
Assistant City Attorney



STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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CITY OF CORAL SPRINGS,

SEP 07 2001

Petitioner,

BUREAU OF AIR REGULATION

v.

Case No.:  
FDEP File No. 0112545-001-AC  
(PSD-FL-316)

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

And

BROWARD BEACH ENERGY CENTER, L.L.C.  
(AN AFFILIATE OF EL PASO MERCHANT  
ENERGY COMPANY),

Respondents.

CITY OF CORAL SPRINGS' PETITION FOR  
ADMINISTRATIVE HEARING

Petitioner, City of Coral Springs, a Florida municipal corporation ("City"), hereby files this Petition for Administrative Hearing challenging the Department of Environmental Protection's ("DEP") Intent to Issue Air Construction Permit for Permit No. 0112545-001-AC (PSD-FL-316) ("Permit") to Broward Beach Energy Center, L.L.C., an affiliate of El Paso Merchant Energy Company ("EL PASO") which would allow the construction of a seven hundred seventy five (775) megawatt natural gas-fired combustion turbine power plant immediately east of the Turnpike and north of Hilton Road (Northwest 48 Street) in Deerfield Beach, Broward County, Florida. As grounds for this Administrative Hearing, City states:

1. City is a Florida municipality comprising approximately 22.7 square miles in the northern end of Broward County.

2. The DEP is the permitting authority in this proceeding and has its offices located at 400 North Congress Avenue, West Palm Beach, Florida 33416 and 111 S. Magnolia Drive, Suite 4, Tallahassee, Florida 32301.

3. Broward Beach Energy Center, L.L.C., through its applicant, EL PASO, has its offices located at 1001 Louisiana Street, Houston, Texas 77002.

### SUBSTANTIAL INTEREST

4. CITY is a Florida municipality with over 117,000 residents located within the immediate area which will be affected by the building of a power plant. As a result, City has a substantial interest in this proceeding.

5. As a Florida municipality, the City enjoys the powers expressly granted to it by Article 8 of the Constitution of the State of Florida. Specifically, Article 8, Section 2(b), entitled, "Powers," expressly enables municipalities to conduct municipal government, perform municipal functions and render municipal services, except as otherwise provided by law.

6. The City, as a Florida municipality, has the obligation to use its police power to regulate and provide for the public health, safety and welfare of its citizens, including the opportunity to afford its citizens light, air and opportunity for recreation.

7. As confirmed on Page TE-8 of EL PASO's Technical Evaluation and Preliminary Determination Review and on Page TE-8 of ENRON's Deerfield Plant Application which proposed plant is located less than two miles from the proposed Pompano Plant (FDEP File No. 00112515-001-AC (PSD-FL-304)), the prevailing wind at the location of the proposed plant is predominantly from the east. The City is located

directly to the west of the proposed location of the Broward Energy Center Plant ("Plant").

8. The City has a total of 735 acres of parks and has in excess of three hundred fifty (350) acres of Environmentally Sensitive Land as designated by the City's Comprehensive Plan and approved and adopted by the Department of Community Affairs.

9. There can be no dispute that known carcinogens and irritants will be released from the proposed Plant. Due to the City's location and the fact that air quality will be undermined by the Plant, the City's parks, wetlands, species of plants and animals, and its citizens will be directly injured by the degradation of the environment.

10. The emissions from the proposed Plant will degrade regional air quality, including air quality in the City. The air in a region has limited carrying capacity, defined as the increment between current air quality and ambient air quality standards or significant impact levels.

11. Each new facility that locates in a region and emits pollutants will consume part of this carrying capacity. For example, this proposed plant together with the proposed Pompano Beach Energy Center Facility and the proposed Deerfield Beach Energy Center Facility, plus other existing sources, consume well in excess of 80% of the 24-hour sulfur dioxide significant impact level,<sup>1</sup> thus severely limiting future potential growth in the region and greatly increasing the possibility that the carrying capacity will be exceeded.

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<sup>1</sup> Public Notice of Intent to Issue Air Construction Permit at 1.

12. Thus, the City has a direct interest in assuring that all pollution-emitting facilities that locate in the region and which affect air quality in the City use best available control technology to reduce pollution to the maximum extent required by law. As discussed infra, the proposed Plant has failed to use best available control technology.

13. Further, City currently has good air quality and is in attainment with all federal ambient air quality standards. The DEP, by failing to compel new industry to comply with federal and state pollution control laws, unlawfully allows regional air quality to be degraded, including air quality in the City, degrading the environment, including the City's parks and native species of plants and animals within the parks and throughout the community.

14. As a Florida municipality charged with preserving the health, safety and welfare of its citizens, the City has a substantial significant interest in protecting the air quality within its boundaries.

15. The nature of the injury is clearly one in which this type of proceeding is designed to protect.

#### **BACKGROUND**

16. On or about August 21, 2001, the CITY received a copy of DEP's Public Notice of Intent to Issue Air Construction Permit for the EL PASO Plant.

17. On March 28, 2001, EL PASO filed its Application with the DEP.

18. On or about August 17, 2001, the DEP entered its Intent to Issue Air Construction Permit.

19. EL PASO is proposing to construct, own and operate a seven hundred and seventy five megawatt (775 MW) power plant, designated as the Broward Energy Center.

The project includes combined cycle and simple cycle gas combustion turbine generators ("CTGs"). The combined cycle CTG consists of a natural gas fired 175-MWGE 7FA turbine, an unfired heat recovery steam generator (HRSG), and a 75-MW steam turbine that would operate continuously. The simple cycle CTGs consist of three natural gas fired 175-MW GE 7FA turbines that would operate 5,000 hours per year. The Plant also includes four 19-foot diameter, 135-foot high stacks, inlet air evaporative cooling, steam injection for power augmentation, a five-cell fresh water cooling tower, one 250-hp emergency fire water pump diesel engine, one 2,600-hp emergency diesel generator, a 12.8 MMBtu/hr gas-fired fuel heater, an ammonia storage tank, and two 1,000-gallon diesel storage tanks.

20. The following uses are located within the immediate vicinity of ENRON's proposed cogeneration power plant facility: (1) Broward County North Regional Wastewater Treatment Plant; (2) Florida Power and Light Electrical Substation; (3) Broward County Central Sanitary Landfill; (4) Wheelabrator Resource Recovery Facility; (5) Hazardous Materials Receiving Facility; and (6) Waste Management Trash Transfer Station.

21. There are currently two (2) other proposed power plants by ENRON North America, both within two (2) miles of this proposed Plant.

22. In addition, the proposed Plant is within thirteen (13) miles of the Arthur R. Marshall Loxahatchee National Wildlife Refuge and within ten (10) miles of the Florida Everglades.

23. The proposed Plant is required to use best available control technology ("BACT") to limit the emissions of nitrogen oxide ("NOx"), carbon monoxide ("CO"),

volatile organic compounds ("VOCs"), sulfur dioxide ("SO<sub>2</sub>"), sulfuric acid mist, and particulate matter with an aerodynamic diameter less than ten (10) microns ("PM10"), pursuant to Rule 62-212.400(2)(f), F.A.C.

24. DEP's Intent to Issue Air Construction Permit was based on erroneous information concerning the proposed Plant's distance to environmentally sensitive lands and, therefore, should be reassessed:

- (i) The Technical Evaluation and Preliminary Determination provides in Paragraph 2 entitled "Facility Information" that the proposed power Plant is located approximately sixty seven (67) kilometers (41.5 miles) from the Everglades National Park;
- (ii) The environmentally sensitive ecosystem of the National Wildlife Refuge is within thirteen (13) miles of the proposed power Plant;
- (iii) While the entrance of Everglades National Park may be over forty one (41) miles away from the proposed power Plant, the environmentally sensitive ecosystem of the Florida Everglades is within ten (10) miles of the proposed site; and
- (iv) The proximity of these ecosystems were not taken into account by the DEP in their review of the proposed location.

#### **DISPUTED ISSUES OF FACT AND LAW**

##### **I. PLANT FAILED TO COMPLY WITH THE PREVENTION OF SIGNIFICANT DETERIORATION RULES**

The Plant must comply with the Prevention of Significant Deterioration ("PSD") rules codified at 40 CFR Part 52 and incorporated as a Florida State Implementation Plan ("SIP") approved program into Rule 62-212.400, F.A.C. These regulations require that

the applicant demonstrate that emission increases would not cause or contribute to air pollution in violation of any applicable maximum allowable increase over the baseline concentration in any area. 40 CFR 52.21(k). The applicant must also demonstrate that the project's emissions coupled with general commercial, residential, industrial and other growth associated with the project would not impair visibility, soil, and vegetation. 40 CFR 52.21(o). Finally, the applicant must demonstrate that the project's emission do not impair air-quality-related values in any Class I area. 40 CFR 52.21(p). Failure to make these demonstrates requires permit denial. CITY will demonstrate that applicant's analyses are technically flawed. When the errors and omissions in applicant's analyses are corrected, emissions from the project will cause exceedances of PSD significance thresholds, significant impairment to sensitive habitats, and result in significant visibility impacts. Therefore, DEP must deny the Permit or modify the project to eliminate these impacts.

## **II. PM10 SIGNIFICANCE THRESHOLD WRONGFULLY EXCEEDED**

The Notice of Intent assumes that the project's PM10 emissions would increase the 24-hour average ambient PM10 concentration by  $23 \text{ ug/m}^3$ , consuming 77% of the PM10 significance threshold of  $30 \text{ ug/m}^3$ . (Notice of Intent at 1). However, the modeling that this conclusion is based on contains errors and omissions. These include omission of minor sources, omission of contributions of sulfuric acid mist ("SAM") and ammonium sulfate to PM10 emissions, failure to model worst-case scenario, and a number of improper ISC input assumptions (e.g., rural dispersion coefficients).

When these errors and omissions are corrected, the project's PM10 emissions cause exceedances of the PM10 PSD significance of  $30 \text{ ug/m}^3$  threshold for Class II

areas. CITY requests that the DEP revisit the air dispersion analyses for PM10 and deny the Permit based on the fact that PSD thresholds will be exceeded.

### **III. VISIBILITY IMPACTS ARE UNDERESTIMATED**

The regional visibility analysis substantially underestimates impacts. The analyses used the wrong emission rates, omitted other power plant projects proposed in the immediately vicinity, failed to consider all of the visibility impairing substances that would be emitted by the project, and made a number of erroneous input assumptions. When these errors and omissions are corrected, project emissions would result in more than 5% visibility impairment, requiring additional analysis and project denial, unless the project is modified. CITY requests that DEP revisit the visibility analyses and deny the Permit based on the fact that the project would significantly impair visibility.

### **IV. PROJECT EMISSIONS EXCEED SAM ACCEPTABLE REFERENCE CONCENTRATION**

The applicant estimated that emissions from the project would increase the 8-hour and 24-hour ambient concentrations of SAM by 0.70 and 0.40  $\mu\text{g}/\text{m}^3$ , assuming that 12% of the fuel sulfur is converted to SAM. (Application at 7-20). Because these concentrations were less than the proposed acceptable reference concentrations, the issue was not further considered. (Application at 7-20).

However, a number of source tests on identical turbines indicate that up to 100% of the fuel sulfur is converted to SAM, not just 12% as assumed by the applicant. Assuming 100% of the fuel sulfur is converted to SAM, the 24-hour proposed acceptable reference concentration of 2.4  $\mu\text{g}/\text{m}^3$  would be exceeded. Thus, CITY requests that DEP revisit this issue and establish numerical SAM permit limits to assure that emissions do



not result in significant impacts and lower fuel sulfur limits. The CITY also requests that DEP require source testing for SAM.

#### **V. COOLING TOWER PLUME VISIBILITY NOT CONSIDERED**

The project includes several cooling towers. Cooling tower drift is mechanically entrained water droplets which are generated inside the cooling tower and are carried along with the air flowing through the tower and exhausted to the environment. The drift has the same makeup as the circulating water, which will be concentrated depending upon the number of times the water is circulated in the towers.

Visible water vapor plumes would form when ambient temperatures are low and humidity is high, a common occurrence during Florida winters. This situation would be aggravated during steam augmentation because large amounts of water is intentionally injected into the combustors to boost power output. The resulting plumes would likely be of a substantial size, would occur for a considerable amount of time, and would be highly visible to large numbers of people, including those traveling along the Florida Turnpike.

These plumes will create hazards. These plumes can pose a significant safety hazard for the nearby Turnpike by obstructing the visibility of motorists or forming ice slicks on the road surface. During freezing temperatures, the droplets of water in the cooling tower mist freeze on local roadways, such as the Turnpike, creating hazardous, icy road conditions that could cause accidents. In addition, the plumes will be a distraction to motorists and will reduce visibility, causing accidents. Third, plumes from cooling towers have been linked to legionellosis disease. Finally, the drift will deposit downwind, potentially adversely affecting local vegetation and the animals that forage on it. The draft also forms large visible plumes that impair visibility.

These types of impacts must be evaluated under the additional impact analyses required by the PSD regulations. 40 CFR 52.21(o). The applicant did not evaluate these impacts. Therefore, CITY requests that the DEP deny the Permit or alternatively direct the applicant to complete the requisite studies, modify the draft Permit as appropriate, and recirculate the permit for public review.

#### **VI. PERMIT APPLICATION FAILS TO USE BEST AVAILABLE CONTROL TECHNOLOGY**

The proposed project is required to use best available control technology ("BACT") to limit the emissions of nitrogen oxide ("NOx"), carbon monoxide ("CO"), sulfur dioxide ("SO<sub>2</sub>"), SAM, and PM10, pursuant to Rule 62-212.400(2)(f), F.A.C. This rule has been incorporated into the SIP, therefore requiring DEP to follow federal guidance and policy. 64 FR 32346 (August 16, 1999); 60 FR 2688 (March 13, 1995); 59 FR 52916 (December 19, 1994).

CITY disputes the DEP's best available control technology ("BACT") determinations contained in Appendix BD of the Technical Evaluation and Preliminary Determination and incorporated into the draft Permit. These determinations do not comply with federal or state law adopted pursuant to the federal Clean Air Act and its amendments, which are designed to protect public health and welfare, including damage to and deterioration of property and hazards to air and ground transportation. See Clean Air Act, Section 101.

The Department must require best available control technology for the Plant. Rule 62-210.200(38), F.A.C. defines BACT as "an emission limitation...based on the *maximum* degree of reduction of each pollutant emitted which the Department, on a case by case basis, taking into account energy, environmental and economic impacts, and

other costs, determines is achievable through application of production processes and available methods, systems and techniques (including fuel cleaning or treatment or innovative fuel combustion techniques) for control of each such pollutant.” (emphasis added) The DEP has not enforced BACT as required.

BACT is “an emission limitation...based on the *maximum* degree of reduction” that has been demonstrated. In determining BACT, the Department shall give consideration to, among others, “all scientific, engineering, and technical material and other information available to the Department,” “the emission limiting standards or BACT determination of any other state,” and “the social and economic impact of such technology.” Rule 62-212.400(6), F.A.C. As set forth below, the DEP has failed to identify the “maximum degree of reduction” in violation of the Florida Administrative Code.

The CITY will demonstrate to the DEP that the proposed BACT limits (or absence thereof) for the turbines, cooling tower, heater, and diesel engines are not consistent with the definition of BACT in Rule 62-210.200(38), F.A.C. and the requirements in Rule 62-212.400(6), F.A.C. as specifically set forth below. BACT is a national standard that does not recognize state lines. The DEP’s BACT determinations do not recognize the much lower limits currently being permitted in other states, nor do they address the social and environmental impacts to the CITY for failing to appropriately limit emissions from the facility.

The draft permit establishes BACT for NOx from the three simple cycle gas turbines as 9 ppmvd at 15% O<sub>2</sub> averaged over 3 hours, achieved using dry low NOx combustors. Continuous compliance would be demonstrated using a continuous emission

monitoring ("CEM") system, based on a 24-hour block average. (Permit, § III.B.9) Other states, including New York, Connecticut, Illinois, and California, have enforced BACT standards by permitting a large number of gas-fired simple cycle peaking power plants with NOx limits of 2 to 6 ppmvd at 15% O<sub>2</sub> averaged over 1 to 3 hours and achieved using high-temperature selective catalytic reduction ("SCR"). Continuous compliance is demonstrated using CEMs, based on 1-hour to 3-hour averages.

The draft Permit also establishes BACT for NOx for the combined cycle gas turbine as 2.5 ppmvd at 15% O<sub>2</sub> averaged over 3 hours, achieved using dry low NOx combustors and SCR. Continuous compliance would be demonstrated using a CEM system, based on a 24-hour block average. (Permit, § III.A.12) Other states, including New York, Connecticut, Massachusetts, Rhode Island, New Jersey, Arizona, Washington, and California have enforced BACT by permitting a large number of gas-fired combined cycle power plants with NOx limits of 1.55 to 2.5 ppmvd at 15% O<sub>2</sub> averaged over 1 hour. Continuous compliance is demonstrated with a CEM system, based on a 1-hour average.

These lower limits are technically and economically feasible for the Plant. They have been demonstrated elsewhere in source tests and with CEMs and thus are achieved in practice. Therefore, a much lower NOx limit should be established for the Plant turbines, consistent with formal BACT determinations and permitting history in other states and pursuant to Rule 62.212.400(2)(f), F.A.C. and Florida's SIP. The CITY will demonstrate that BACT for NOx for all Plant turbines is 2.0 ppmvd at 15% O<sub>2</sub> averaged over 1 hour and achieved with SCR.

The draft permit establishes BACT for CO for the simple cycle gas turbines as 8.0 ppmvd @ 15% O<sub>2</sub> on gas achieved with good combustion. Compliance would be demonstrated based on a 3-hour source test. (Permit, § III.B.8.) Other states, including California, have enforced BACT standards by permitting simple cycle peaking power plants with CO limits of 2 to 6 ppmvd at 15% O<sub>2</sub> on gas, achieved using an oxidation catalyst.

The draft permit establishes BACT for CO for the combined cycle gas turbine as 12.0 ppmvd @ 15% O<sub>2</sub> when injecting steam for power augmentation and 8.0 ppmvd @ 15% O<sub>2</sub> at all other times, achieved with good combustion. Compliance would be demonstrated based on a 3-hour source test when injecting steam and with CEM system at all other times, based on a 3-hour average. (Permit, § III.A.11.) Other states, including California, Massachusetts, Connecticut, New York, New Jersey, Arizona, and Washington have enforced BACT standards by permitting simple cycle and combined cycle power plants with CO limits of 2 to 6 ppmvd at 15% O<sub>2</sub> averaged over 3 hours, achieved using an oxidation catalyst.

Oxidation catalysts are technically feasible and cost effective for both simple cycle and combined cycle applications. They are also essential to control toxic emissions, particularly from simple cycle turbines that experience a large number of startups. Temperature is not a constraint, as alleged by the DEP. These lower limits have been demonstrated in hundreds of source tests and with CEM systems. As a result, a much lower CO limit should be established for the turbines and continuous compliance should be demonstrated with a CEM system. The CITY will demonstrate that BACT for

CO for all Plant turbines is 2.0 ppmvd at 15% O<sub>2</sub> averaged over 3 hours and achieved with an oxidation catalyst.

The draft Permit establishes a fuel sulfur limit of 1.5 grains per 100 standard cubic feet ("gr/100 scf") (Permit at III.A.6 and III.B.6), concluding that this establishes BACT for both SO<sub>2</sub> and SAM. However, this is a large amount of sulfur for natural gas, amounting to 25 ppmw. Most natural gas has less than 0.1 to 1 gr/100 scf. Sulfur can be economically removed from natural gas using a number of amine scrubbing processes.

Clean fuels were not considered in the BACT analysis. The 1990 Clean Air Act Amendments inserted "clean fuels" into the definition of BACT at 42 U.S.C. § 169(3) so that it now reads:

An emission limitation based on the maximum degree of reduction of each pollutant...which the permitting authority, on a case-by-case basis...determines is achievable for such facility through application of production processes and available methods, systems and techniques, including fuel cleaning, *clean fuels*, or treatment or innovative fuel combustion techniques for control of each such pollutant.

(emphasis added).

This change codified the then practice "which holds that clean fuels are an available means of reducing emissions to be considered along with other approaches in identifying BACT level controls."<sup>2</sup> Thus, in deciding what constitutes BACT, the DEP must consider both the cleanliness of the fuel and the use of add-on pollution control devices. Hawaiian Commercial & Sugar Company, PSD Appeal No. 92-1 at 5, n.7

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<sup>2</sup> Letter from William G. Rosenberg, Assistant Administrator for Air and Radiation, to Henry A. Waxman, Chairman, Subcommittee on Health and Environment, House Committee on Energy and Commerce, October 17, 1990, reprinted in 136 Cong. Rec. at S16916-17, daily edition, October 17, 1990.

(EAB, July 20, 1992) ("the definition of BACT includes consideration of both clean fuels and use of air pollution control devices.")

The cleanliness of the fuel was not considered. Therefore, CITY requests that the DEP direct the applicant to conduct a formal top-down BACT analysis that considers alternate fuel suppliers or treating the existing supply to a lower sulfur level.

#### **VII. OMITTING STARTUPS AND SHUTDOWN EMISSIONS IS INCONSISTENT WITH CLEAN AIR ACT**

The Permit contains no limits on the number of startups/shutdowns nor on the emissions during these periods, which must be considered as part of the BACT determination, but was not. During startups and shutdowns, combustion temperatures and pressures change rapidly, resulting in inefficient combustion and much higher emissions of NOx, CO, and VOCs (including aldehydes) than during steady state operation.

The CITY is concerned that virtually unlimited and uncontrolled startup and shutdown emissions will result in significant health impacts in Coral Springs, particularly during simultaneous operation of the Pompano and Deerfield Beach Energy Centers. Emissions of formaldehyde and other toxic pollutants can increase by large amounts during startups, compared to full load operation.

Omitting limits on startup and shutdown emissions is not consistent with requirements of the Clean Air Act. The U.S. EPA has consistently defined startup and shutdown to be part of the normal operation of a source. See, Letter from Kathleen M. Bennett attached hereto as composite Exhibit "A." The EPA has also consistently concluded that these emissions should be accounted for in the design and implementation or the operating procedure for the process and control equipment. EPA has concluded

that "[w]ithout clear definition and limitations, these automatic exemption provisions [for startups and shutdowns] could effectively shield excess emissions arising from poor operation and maintenance or design, thus precluding attainment." (Bennett 9/28/82).

Accordingly, these emission should have been considered in the BACT analysis and the related health impacts addressed in conjunction with the environmental review required pursuant to Rule 62-210.200(38), F.A.C. Permits issued by other states include limits on startup and shutdown emissions. Thus, the CITY recommends that a permit condition be included that specifically limits the number, duration, and emissions during startups and shutdowns, to comply with BACT and MACT.

#### **VIII. PERMIT FAILS TO MAKE BACT DETERMINATION FEDERALLY ENFORCEABLE**

The DEP made BACT determinations for PM10, SO<sub>2</sub>, NO<sub>x</sub>, CO and SAM to satisfy the prevention of significant deterioration ("PSD") regulations. Technical Evaluation at TE-6 and Permit at 2. These determinations must be federally enforceable. The NSR Manual<sup>3</sup> provides that "to complete the BACT process, the reviewing agency must establish an enforceable emission limit for each subject emission unit at the source and for each pollutant subject to review that is emitted from the source." NSR Manual at B.56.

The limits in the Permit must be practically enforceable to qualify as legitimate restrictions on emissions. Practical enforceability means the source and/or enforcement authority must be able to show continual compliance (or noncompliance) with each limitation or requirement. See, U.S. v. Louisiana-Pacific Corp., 682 F.Supp. 1122, Civil

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<sup>3</sup> U.S. EPA, New Source Review Workshop Manual. Prevention of Significant Deterioration and Nonattainment Area Permitting, Draft, October 1990.



Action No. 86-A-1880 (D. Colorado, March 22, 1988). The draft Permit does not contain practically enforceable limits on PM10, SO<sub>2</sub>, or SAM.

The DEP did not establish any limits for PM10 emissions from the turbines, although it has done so in other recently issued permits. Permit at III.A.13 and III.B.10. Instead, it lists emission rates that it "expects" to be met, arguing that fuel specifications, CO limits, and visible emission standards are substitutes. However, there is no demonstrated relationship between PM10 and visible emissions, CO and fuel specifications.

Further, PM10 originates from many sources besides fuel sulfur, including ambient particulates, steam injected into the turbine for power augmentation, and contaminants in the fuel and in the combustion system. Thus, these surrogates are not replacements for a federally enforceable emission limit on PM10 itself that is demonstrated in annual source tests.

#### **IX. PERMIT FAILS TO MAKE TURBINE PM10 LIMITS FEDERALLY ENFORCEABLE**

The PM/PM10 limits are not practically enforceable because the Permit contains inadequate monitoring requirements (PM/PM10). Condition III.B.14 requires a single source test for PM/PM10 from the simple cycle turbines only. No subsequent source tests for PM10 are required for these turbines. Permit at III.A.18. This is inconsistent with federal case law, which requires that limits be established for all pollutant for which BACT is established and that each individual limit (when one is appropriately established) is federally enforceable.

One source test is not adequate to assure continuous compliance because PM10 emissions are highly variable and emissions on initial testing represent "new and clean" conditions. Turbine performance degrades and emissions increase over time.

The CITY request that DEP establish firm PM10 emission limits, expressed in pounds per million Btus, pounds per hour, and tons per year and require compliance demonstration in annual source tests.

#### **X. PM10 FROM COOLING TOWER NOT PROPERLY LIMITED**

The BACT analysis established a PM10 drift rate of 0.0005% for the cooling tower but did not establish an enforceable PM10 permit limit for the tower. Instead, it simply repeated the BACT level without providing any means to determine compliance. Permit at III.D.1. CITY recommends that the circulating water flow rate and the total dissolved solids concentration in the circulating water be limited to those assumed in the BACT analysis. Appendix BD at BD-13 and -14.

#### **XI. PERMIT FAILS TO MAKE CO LIMIT FEDERALLY ENFORCEABLE**

The Permit establishes emission limits for CO. Permit Condition III.A.20 requires a CEMs for the combined cycle CTG, but Condition III.B.16 does not require a CEMs for the simple cycle CTGs. The NSR Manual recommends that compliance with emission limits be demonstrated, continuously, where feasible. It is feasible to continuously monitor CO, and, in fact, CEMs are commonly required to determine compliance with CO. Therefore, CITY requests that DEP require CO CEMs to demonstrate compliance with the CO limits for the simple cycle CTGs.

## **XII. PERMIT FAILED TO PUT LIMITS ON MINOR SOURCES**

The draft Permit exempts the diesel generator, fuel heater, and diesel fire pump engine, based on small source exemptions in Florida regulations. (Permit at III.D) However, these are state exemptions that do not apply to federal programs, such as the PSD regulations, which are part of Florida's SIP. The PSD regulations do not allow exemptions for minor sources. These sources, although individually minor, must use BACT and be regulated by permit, pursuant to Rule 62-210.200(112), F.A.C., which defines a facility as "all of the emissions units which are located on one or more contiguous or adjacent properties, and which are under the control of the same person (or persons under common control)." Thus, CITY requests that the Permit be modified to require BACT for these minor sources and to establish emission limits and operating hours, consistent with emissions estimates in the Application.

## **XIII. PERMIT FAILS TO PROPERLY LIMIT SO<sub>2</sub> AND SAM**

The draft Permit does not establish any emission limits for either SAM or SO<sub>2</sub> to determine compliance with the BACT determinations, instead arguing that compliance with the BACT determinations, instead arguing that compliance with fuel sulfur specifications is adequate. (Permit at III.A.14 and III.B.11.)

The fuel sulfur specifications themselves do not require any monitoring, instead accepting the vendor's analysis for each month of operation. (Permit at III.C.6.) BACT emission limits must be met on a continual basis at all levels of operation. (NSR Manual at B.56.) Thus, the Permit must be modified to require continuous monitoring of fuel sulfur.

#### **XIV. PLANT EMITS HAZARDOUS AIR POLLUTANTS (HAPs)**

##### **A. Diesel Exhaust**

The Plant intends on using diesel in the emergency generator and firewater pump engine. The combustion of diesel in these engines would produce "diesel exhaust," which is recognized by the U.S. Environmental Protection Agency (EPA) and California as a potent human carcinogen and respiratory irritant. The CITY is deeply concerned about the impact of these emissions, as well as others, set out below, on the residents of Coral Springs. CITY maintains these emissions should have been considered as a collateral environmental impact in a formal BACT analysis for these engines, pursuant to the definition of BACT at F.A.C. 62-210.200(38) and federal guidance.

##### **B. Maximum Achievable Control Technology for HAPs Required**

The applicant's estimates of hazardous air pollutant ("HAPs") did not consider the significant increase in these emissions that occurs during startups and shutdowns. (Application at 2-16.) The emissions of NO<sub>x</sub>, CO, VOCs, and individual HAPs increase during startups.

It is well documented that turbine performance, in terms of combustion efficiency, degrades as load decreases. Turbines are designed to run efficiently at full load where fuel combustion is nearly 100% efficient. During startup and shutdowns when loads fall below 50%, turbine combustors are extremely inefficient, which results in incomplete combustion. The three simple cycle turbines would experience frequent startups (the number was not disclosed). The emissions from these low load periods should have been included in the HAP emission estimates and in health risk assessments.

When HAP emission estimates are revised to include startups, formaldehyde emissions substantially exceed the 10 ton/yr threshold for any single HAP and combined HAP emissions exceed the 25 ton/yr combined HAP threshold. In fact, if each turbine experienced as few as 100 startups per year, lasting only 10 minutes, the emissions of formaldehyde would exceed 10 ton/yr *per turbine* and require the use of maximum achievable control technology ("MACT"), pursuant to Rule 62-204.800, F.A.C.

There are currently no source category MACT standards for combustion turbines. However, EPA published an Interpretive Rule on May 25, 2000<sup>4</sup> clarifying that case-by-case MACT analyses under 40 CFR 63, Subpart B, are required for major stationary source combustion turbines such as this project. Therefore, a case-by-case MACT analysis should be performed. Normally, MACT for gas turbines is an oxidation catalyst, which is also required here to control CO emissions.

#### **XV. PERMIT FAILS TO COMPLY WITH BROWARD COUNTY REQUIREMENTS**

Finally, regulations governing air permits at F.A.C. 62-210.300(4)(d) require that each facility located within the borders of Broward County must comply with the requirements of Broward County. The Plant does not comply with Broward County requirements.

The applicant has not prepared an acceptable pollution prevention plant ("PPP"), as required by Broward County Code ("BCC") Section 27-178. The PPP should achieve a reduction in the generation of regulated air pollutants. The emissions of all regulated pollutants from the Plant exceed the criteria established in this code section, requiring the

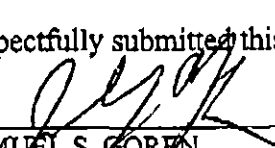
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<sup>4</sup> National Emission Standards for Hazardous Air Pollutants for Source Categories, Federal Register, v. 65, no. 102, May 25, 2000.

preparation of a PPP. The PPP should lay out a plan to implement "reasonably available technically and economically feasible alternatives" to the proposed levels of emissions. BCC Sec. 27-178(2) and (3)(c).

WHEREFORE, Petitioner CITY, respectfully requests a formal administrative evidence hearing, de novo, pursuant to Chapter 120, Florida Statutes, to resolve disputed issues of material fact and law and that the DEP should not issue Permit No. 0112545-001-AC (PSD-FL-316) or, in the alternative, should amend the Permit to comply with BACT requirements and should prohibit diesel oil from being used at this Facility


Respectfully submitted this 4<sup>th</sup> day of September, 2001.

  
\_\_\_\_\_  
SAMUEL S. FOREN  
City Attorney

JOHN J. HEARN  
Assistant City Attorney

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via facsimile and regular U.S. mail to: the State of Florida Department of Environmental Protection, Marjory Stoneman Douglas Building, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000 (850-921-3000) and via regular U.S. mail to Joel Gustafson, Esquire, Holland & Knight, Post Office Box 14070, Fort Lauderdale, Florida 33302-4070 this 4<sup>th</sup> day of September, 2001.

CITY OF CORAL SPRINGS  
CITY ATTORNEY'S OFFICE  
  
\_\_\_\_\_  
JOHN J. HEARN, Asst. City Atty.  
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(954) 344-5930 (facsimile)

doc. #59353

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

**RECEIVED**

SEP 07 2001

BUREAU OF AIR REGULATION

CITY OF MARGATE,

Petitioner,

v.

Case No.:  
FDEP File No. 0112545-001-AC  
(PSD-FL-316)

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

And

BROWARD BEACH ENERGY CENTER, L.L.C.  
(AN AFFILIATE OF EL PASO MERCHANT  
ENERGY COMPANY),

Respondents.

**CITY OF MARGATE'S PETITION FOR  
ADMINISTRATIVE HEARING**

Petitioner, City of Margate, a Florida municipal corporation ("City"), hereby files this Petition for Administrative Hearing challenging the Department of Environmental Protection's ("DEP") Intent to Issue Air Construction Permit for Permit No. 0112545-001-AC (PSD-FL-316) ("Permit") to Broward Beach Energy Center, L.L.C., an affiliate of El Paso Merchant Energy Company ("EL PASO") which would allow the construction of a seven hundred seventy five (775) megawatt natural gas-fired combustion turbine power plant immediately east of the Turnpike and north of Hilton Road (Northwest 48 Street) in Deerfield Beach, Broward County, Florida. As grounds for this Administrative Hearing, City states:

1. City is a Florida municipality comprising approximately 8.98 square miles in the northern end of Broward County.

2. The DEP is the permitting authority in this proceeding and has its offices located at 400 North Congress Avenue, West Palm Beach, Florida 33416 and 111 S. Magnolia Drive, Suite 4, Tallahassee, Florida 32301.

3. Broward Beach Energy Center, L.L.C., through its applicant, EL PASO, has its offices located at 1001 Louisiana Street, Houston, Texas 77002.

### SUBSTANTIAL INTEREST

4. CITY is a Florida municipality with over 53,000 residents located within the immediate area which will be affected by the building of a power plant. As a result, City has a substantial interest in this proceeding.

5. As a Florida municipality, the City enjoys the powers expressly granted to it by Article 8 of the Constitution of the State of Florida. Specifically, Article 8, Section 2(b), entitled, "Powers," expressly enables municipalities to conduct municipal government, perform municipal functions and render municipal services, except as otherwise provided by law.

6. The City, as a Florida municipality, has the obligation to use its police power to regulate and provide for the public health, safety and welfare of its citizens, including the opportunity to afford its citizens light, air and opportunity for recreation.

7. As confirmed on Page TE-8 of EL PASO's Technical Evaluation and Preliminary Determination Review and on Page TE-8 of ENRON's Deerfield Plant Application which proposed plant is located less than two miles from the proposed Pompano Plant (FDEP File No. 00112515-001-AC (PSD-FL-304)), the prevailing wind at the location of the proposed plant is predominantly from the east. The City is located



directly to the west of the proposed location of the Broward Energy Center Plant ("BEC").

8. The City has a total of 105 acres of parks and has in excess of 257 acres of Environmentally Sensitive land as designated by the City's Comprehensive Plan and approved and adopted by the Department of Community Affairs.

9. There can be no dispute that known carcinogens and irritants will be released from the proposed Plant. Due to the City's location, the City's parks, wetlands, species of plants and animals, and its citizens will be directly injured by the degradation of the environment.

10. The emissions from the proposed Plant will degrade regional air quality, including air quality in the City. The air in a region has limited carrying capacity, defined as the increment between current air quality and ambient air quality standards or significant impact levels.

**11. Each new facility that locates in a region and emits pollutants will consume part of this carrying capacity. For example, this proposed plant together with the proposed Pompano Beach Energy Center Facility and the proposed Deerfield Beach Energy Center Facility, plus other existing sources, consume well in excess of 80% of the 24-hour sulfur dioxide significant impact level,<sup>1</sup> thus severely limiting future potential growth in the region and greatly increasing the possibility that the carrying capacity will be exceeded.**

12. Thus, the City has a direct interest in assuring that all pollution-emitting facilities that locate in the region and which affect air quality in the City use best

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<sup>1</sup> Public Notice of Intent to Issue Air Construction Permit at 1.

available control technology to reduce pollution to the maximum extent required by law. As discussed infra, the proposed Plant has failed to use best available control technology.

13. Further, City currently has good air quality and is in attainment with all federal ambient air quality standards. The DEP, by failing to compel new industry to comply with federal and state pollution control laws, unlawfully allows regional air quality to be degraded, including air quality in the City, degrading the environment, including the City's parks and native species of plants and animals within the parks and throughout the community.

14. As a Florida municipality charged with preserving the health, safety and welfare of its citizens, the City has a substantial significant interest in protecting the air quality within its boundaries.

15. The nature of the injury is one in which this type of proceeding is designed to protect.

#### **BACKGROUND**

16. On or about August 21, 2001, the CITY received a copy of DEP's Public Notice of Intent to Issue Air Construction Permit for the EL PASO Plant.

17. On March 28, 2001, EL PASO filed its Application with the DEP.

18. On or about August 17, 2001, the DEP entered its Intent to Issue Air Construction Permit.

19. EL PASO is proposing to construct, own and operate a seven hundred and seventy five megawatt (775 MW) power plant, designated as the Broward Energy Center ("BEC"). The project includes combined cycle and simple cycle gas combustion turbine generators ("CTGs"). The combined cycle CTG consists of a natural gas fired 175-

MWGE 7FA turbine, an unfired heat recovery steam generator (HRSG), and a 75-MW steam turbine that would operate continuously. The simple cycle CTGs consist of three natural gas fired 175-MW GE 7FA turbines that would operate 5,000 hours per year. The Plant also includes four 19-foot diameter, 135-foot high stacks, inlet air evaporative cooling, steam injection for power augmentation, a five-cell fresh water cooling tower, one 250-hp emergency fire water pump diesel engine, one 2,600-hp emergency diesel generator, a 12.8 MMBtu/hr gas-fired fuel heater, an ammonia storage tank, and two 1,000-gallon diesel storage tanks.

20. The following uses are located within the immediate vicinity of ENRON's proposed cogeneration power plant facility: (1) Broward County North Regional Wastewater Treatment Plant; (2) Florida Power and Light Electrical Substation; (3) Broward County Central Sanitary Landfill; (4) Wheelabrator Resource Recovery Facility; (5) Hazardous Materials Receiving Facility; and (6) Waste Management Trash Transfer Station.

21. There are currently two (2) other proposed power plants by ENRON North America, both within two (2) miles of this proposed Plant.

22. In addition, the proposed Plant is within thirteen (13) miles of the Arthur R. Marshall Loxahatchee National Wildlife Refuge and within ten (10) miles of the Florida Everglades.

23. The proposed Plant is required to use best available control technology ("BACT") to limit the emissions of nitrogen oxide ("NOx"), carbon monoxide ("CO"), volatile organic compounds ("VOCs"), sulfur dioxide ("SO<sub>2</sub>"), sulfuric acid mist, and

particulate matter with an aerodynamic diameter less than ten (10) microns ("PM10"), pursuant to Rule 62-212.400(2)(f), F.A.C.

24. DEP's Intent to Issue Air Construction Permit was based on erroneous information concerning the proposed Plant's distance to environmentally sensitive lands and, therefore, should be reassessed:

- (i) The Technical Evaluation and Preliminary Determination provides in Paragraph 2 entitled "Facility Information" that the proposed power Plant is located approximately sixty seven (67) kilometers (41.5 miles) from the Everglades National Park;
- (ii) The environmentally sensitive ecosystem of the National Wildlife Refuge is within thirteen (13) miles of the proposed power Plant;
- (iii) While the entrance of Everglades National Park may be over forty one (41) miles away from the proposed power Plant, the environmentally sensitive ecosystem of the Florida Everglades is within ten (10) miles of the proposed site; and
- (iv) The proximity of these ecosystems were not taken into account by the DEP in their review of the proposed location.

#### DISPUTED ISSUES OF FACT AND LAW

#### **AIR QUALITY ISSUES**

The proposed facility must comply with the Prevention of Significant Deterioration ("PSD") rules codified at 40 CFR Part 52 and incorporated as a SIP-approved program into Rule 62-212.400, F.A.C. These regulations require that the applicant demonstrate that emission increases would not cause or contribute to air

pollution in violation of any applicable maximum allowable increase over the baseline concentration in any area. 40 CFR 52.21(k). The applicant must also demonstrate that the project's emissions coupled with general commercial, residential, industrial and other growth associated with the project would not impair visibility, soil, and vegetation. 40 CFR 52.21(o). Finally, the applicant must demonstrate that the project's emission do not impair air-quality-related values in any Class I area. 40 CFR 52.21(p). Failure to make these demonstrates requires permit denial. CITY will demonstrate that applicant's analyses are technically flawed. When the errors and omissions in applicant's analyses are corrected, emissions from the project will cause exceedances of PSD significance thresholds, significant impairment to sensitive habitats, and result in significant visibility impacts. Therefore, DEP must deny the Permit or modify the project to eliminate these impacts.

#### PM10 Significance Threshold Exceeded

The Notice of Intent assumes that the project's PM10 emissions would increase the 24-hour average ambient PM10 concentration by  $23 \text{ ug/m}^3$ , consuming 77% of the PM10 significance threshold of  $30 \text{ ug/m}^3$ . (Notice of Intent at 1). However, the modeling that this conclusion is based on contains errors and omissions. These include omission of minor sources, omission of contributions of SAM and ammonium sulfate to PM10 emissions, failure to model worst-case scenario, and a number of improper ISC input assumptions (e.g., rural dispersion coefficients).

When these errors and omissions are corrected, the project's PM10 emissions cause exceedances of the PM10 PSD significance of  $30 \text{ ug/m}^3$  threshold for Class II

areas. CITY requests that the DEP revisit the air dispersion analyses for PM10 and deny the Permit based on the fact that PSD thresholds will be exceeded.

#### **Visibility Impacts are Significant**

The regional visibility analysis substantially underestimates impacts. The analyses used the wrong emission rates, omitted other power plant projects proposed in the immediately vicinity, failed to consider all of the visibility impairing substances that would be emitted by the project, and made a number of erroneous input assumptions. When these errors and omissions are corrected, project emissions would result in more than 5% visibility impairment, requiring additional analysis and project denial, unless the project is modified. CITY requests that DEP revisit the visibility analyses and deny the Permit based on the fact that the project would significantly impair visibility.

#### **Project Emissions Exceed SAM Acceptable Reference Concentration**

The applicant estimated that emissions from the project would increase the 8-hour and 24-hour ambient concentrations of SAM by 0.70 and 0.40  $\mu\text{g}/\text{m}^3$ , assuming that 12% of the fuel sulfur is converted to SAM. (Application at 7-20). Because these concentrations were less than the proposed acceptable reference concentrations, the issue was not further considered. (Application at 7-20).

However, a number of source tests on identical turbines indicate that up to 100% of the fuel sulfur is converted to SAM, not just 12% as assumed by the applicant. Assuming 100% of the fuel sulfur is converted to SAM, the 24-hour proposed acceptable reference concentration of 2.4  $\mu\text{g}/\text{m}^3$  would be exceeded. Thus, CITY requests that DEP revisit this issue and establish numerical SAM permit limits to assure that emissions do

not result in significant impacts and lower fuel sulfur limits. The CITY also requests that DEP require source testing for SAM.

#### Cooling Tower Plume Visibility Not Considered

The project includes several cooling towers. Cooling tower drift is mechanically entrained water droplets which are generated inside the cooling tower and are carried along with the air flowing through the tower and exhausted to the environment. The drift has the same makeup as the circulating water, which will be concentrated depending upon the number of times the water is circulated in the towers. **The plumes from the cooling towers and turbines could create a number of impacts that are not evaluated in any of the materials that I have reviewed. These include fogging, icing, drift, visibility impairment and contamination of surfaces.**

Visible water vapor plumes would form when ambient temperatures are low and humidity is high, a common occurrence during Florida winters. This situation would be aggravated during steam augmentation because large amounts of water is intentionally injected into the combustors to boost power output. The resulting plumes would likely be of a substantial size, would occur for a considerable amount of time, and would be highly visible to large numbers of people, including those traveling along the Florida Turnpike.

These plumes will create hazards. These plumes can pose a significant safety hazard for the nearby Turnpike by obstructing the visibility of motorists or forming ice slicks on the road surface on the occasional winter nights when frost occurs. During freezing temperatures, the droplets of water in the cooling tower mist freeze on local roadways, such as the Turnpike, creating hazardous, icy road conditions that could cause accidents. In addition, the plumes will be a distraction to motorists and will reduce

visibility, causing accidents. Third, plumes from cooling towers have been linked to legionellosis disease. Finally, the drift will deposit downwind, potentially adversely affecting local vegetation and the animals that forage on it. The draft also forms large visible plumes that impair visibility.

These types of impacts must be evaluated under the additional impact analyses required by the PSD regulations. 40 CFR 52.21(o). The applicant did not evaluate these impacts. Therefore, CITY requests that the DEP deny the Permit or alternatively direct the applicant to complete the requisite studies, modify the draft Permit as appropriate, and recirculate the permit for public review.

#### **BEST AVAILABLE CONTROL TECHNOLOGY**

The proposed project is required to use best available control technology ("BACT") to limit the emissions of nitrogen oxide ("NOx"), carbon monoxide ("CO"), sulfur dioxide ("SO<sub>2</sub>"), sulfuric acid mist ("SAM"), and particulate matter with an aerodynamic diameter less than 10 microns ("PM10"), pursuant to Rule 62-212.400(2)(f), F.A.C. This rule has been incorporated into the Florida State Implementation Plan ("SIP"), therefore requiring DEP to follow federal guidance and policy. 64 FR 32346 (August 16, 1999); 60 FR 2688 (March 13, 1995); 59 FR 52916 (December 19, 1994).

CITY disputes the DEP's best available control technology ("BACT") determinations contained in Appendix BD of the Technical Evaluation and Preliminary Determination and incorporated into the draft Permit. These determinations do not comply with federal or state law adopted pursuant to the federal Clean Air Act and its amendments, which are designed to protect public health and welfare, including damage



to and deterioration of property and hazards to air and ground transportation. See Clean Air Act, Section 101.

The Department must require best available control technology for the Plant. Rule 62-210.200(38), F.A.C. defines BACT as "an emission limitation... based on the *maximum* degree of reduction of each pollutant emitted which the Department, on a case by case basis, taking into account energy, environmental and economic impacts, and other costs, determines is achievable through application of production processes and available methods, systems and techniques (including fuel cleaning or treatment or innovative fuel combustion techniques) for control of each such pollutant." (emphasis added) The DEP has not enforced BACT as required.

BACT is "an emission limitation... based on the *maximum* degree of reduction" that has been demonstrated. In determining BACT, the Department shall give consideration to, among others, "all scientific, engineering, and technical material and other information available to the Department," "the emission limiting standards or BACT determination of any other state," and "the social and economic impact of such technology." Rule 62-212.400(6), F.A.C. As set forth below, the DEP has failed to identify the "maximum degree of reduction" in violation of the Florida Administrative Code.

The CITY will demonstrate to the DEP that the proposed BACT limits (or absence thereof) for the turbines, cooling tower, heater, and diesel engines are not consistent with the definition of BACT in Rule 62-210.200(38), F.A.C. and the requirements in Rule 62-212.400(6), F.A.C. as specifically set forth below. BACT is a national standard that does not recognize state lines. The DEP's BACT determinations

do not recognize the much lower limits currently being permitted in other states, nor do they address the social and environmental impacts to the CITY for failing to appropriately limit emissions from the facility.

#### **BACT Not Required for NOx**

The draft permit establishes BACT for NOx from the three simple cycle gas turbines as 9 ppmvd at 15% O<sub>2</sub> averaged over 3 hours, achieved using dry low NOx combustors. Continuous compliance would be demonstrated using a continuous emission monitoring ("CEM") system, based on a 24-hour block average. (Permit, § III.B.9) Other states, including New York, Connecticut, Illinois, and California, have permitted a large number of gas-fired simple cycle peaking power plants with NOx limits of 2 to 6 ppmvd at 15% O<sub>2</sub> averaged over 1 to 3 hours and achieved using high-temperature selective catalytic reduction ("SCR"). Continuous compliance is demonstrated using CEMs, based on 1-hour to 3-hour averages.

The draft Permit also establishes BACT for NOx for the combined cycle gas turbine as 2.5 ppmvd at 15% O<sub>2</sub> averaged over 3 hours, achieved using dry low NOx combustors and SCR. Continuous compliance would be demonstrated using a CEM system, based on a 24-hour block average. (Permit, § III.A.12) Other states, including New York, Connecticut, Massachusetts, Rhode Island, New Jersey, Arizona, Washington, and California have permitted a large number of gas-fired combined cycle power plants with NOx limits of 1.55 to 2.5 ppmvd at 15% O<sub>2</sub> averaged over 1 hour. Continuous compliance is demonstrated with a CEM system, based on a 1-hour average.

These lower limits are technically and economically feasible for the Plant. They have been demonstrated elsewhere in source tests and with CEMs and thus are achieved

in practice. Therefore, a much lower NOx limit should be established for the Plant turbines, consistent with formal BACT determinations and permitting history in other states and pursuant to Rule 62.212.400(2)(f), F.A.C. and Florida's SIP. The CITY will demonstrate that BACT for NOx for all Plant turbines is 2.0 ppmvd at 15% O<sub>2</sub> averaged over 1 hour and achieved with SCR.

#### **BACT Not Required For CO**

The draft permit establishes BACT for CO for the simple cycle gas turbines as 8.0 ppmvd @ 15% O<sub>2</sub> on gas achieved with good combustion. Compliance would be demonstrated based on a 3-hour source test. (Permit, § III.B.8.) Other states, including California, have permitted simple cycle peaking power plants with CO limits of 2 to 6 ppmvd at 15% O<sub>2</sub> on gas, achieved using an oxidation catalyst.

The draft permit establishes BACT for CO for the combined cycle gas turbine as 12.0 ppmvd @ 15% O<sub>2</sub> when injecting steam for power augmentation and 8.0 ppmvd @ 15% O<sub>2</sub> at all other times, achieved with good combustion. Compliance would be demonstrated based on a 3-hour source test when injecting steam and with CEM system at all other times, based on a 3-hour average. (Permit, § III.A.11.) Other states, including California, Massachusetts, Connecticut, New York, New Jersey, Arizona, and Washington have permitted simple cycle and combined cycle power plants with CO limits of 2 to 6 ppmvd at 15% O<sub>2</sub> averaged over 3 hours, achieved using an oxidation catalyst.

Oxidation catalysts are technically feasible and cost effective for both simple cycle and combined cycle applications, including BEC. They are also essential to control toxic emissions, particularly from simple cycle turbines that experience a large number of

startups. Temperature is not a constraint, as alleged by the DEP. These lower limits have been demonstrated in hundreds of source tests and with CEM systems. As a result, a much lower CO limit should be established for the turbines and continuous compliance should be demonstrated with a CEM system. The CITY will demonstrate that BACT for CO for all Plant turbines is 2.0 ppmvd at 15% O<sub>2</sub> averaged over 3 hours and achieved with an oxidation catalyst.

**BACT Not Required For Sulfur Species**

The draft Permit establishes a fuel sulfur limit of 1.5 grains per 100 standard cubic feet (“gr/100 scf”) (Permit at III.A.6 and III.B.6), concluding that this establishes BACT for both SO<sub>2</sub> and SAM. However, this is a large amount of sulfur for natural gas, amounting to 25 ppmw. Most natural gas has less than 0.1 to 1 gr/100 scf. Sulfur can be economically removed from natural gas using a number of amine scrubbing processes.

Clean fuels were not considered in the BACT analysis. The 1990 Clean Air Act Amendments inserted “clean fuels” into the definition of BACT at 42 U.S.C. § 169(3) so that it now reads:

An emission limitation based on the maximum degree of reduction of each pollutant... which the permitting authority, on a case-by-case basis... determines is achievable for such facility through application of production processes and available methods, systems and techniques, including fuel cleaning, *clean fuels*, or treatment or innovative fuel combustion techniques for control of each such pollutant.

(emphasis added).

This change codified the then practice “which holds that clean fuels are an available means of reducing emissions to be considered along with other approaches in

identifying BACT level controls."<sup>2</sup> Thus, in deciding what constitutes BACT, the DEP must consider both the cleanliness of the fuel and the use of add-on pollution control devices. Hawaiian Commercial & Sugar Company, PSD Appeal No. 92-1 at 5, n.7 (EAB, July 20, 1992) ("the definition of BACT includes consideration of both clean fuels and use of air pollution control devices.")

The cleanliness of the fuel was not considered. Therefore, CITY requests that the DEP direct the applicant to conduct a formal top-down BACT analysis that considers alternate fuel suppliers or treating the existing supply to a lower sulfur level.

#### **Startups and Shutdown Emissions Not Limited**

The Permit contains no limits on the number of startups/shutdowns nor on the emissions during these periods, which should be considered as part of the BACT determination, but was not. During startups and shutdowns, combustion temperatures and pressures change rapidly, resulting in inefficient combustion and much higher emissions of NO<sub>x</sub>, CO, and VOCs (including aldehydes) than during steady state operation.

The CITY is concerned that virtually unlimited and uncontrolled startup and shutdown emissions will result in significant health impacts in Margate, particularly during simultaneous operation of the Pompano and Deerfield Beach Energy Centers. Emissions of formaldehyde and other toxic pollutants can increase by large amounts during startups, compared to full load operation.

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<sup>2</sup> Letter from William G. Rosenberg, Assistant Administrator for Air and Radiation, to Henry A. Waxman, Chairman, Subcommittee on Health and Environment, House Committee on Energy and Commerce, October 17, 1990, reprinted in 136 Cong. Rec. at S16916-17, daily edition, October 17, 1990.

Omitting limits on startup and shutdown emissions is not consistent with requirements of the Clean Air Act. The U.S. EPA has consistently defined startup and shutdown to be part of the normal operation of a source. See, Letter from Kathleen M. Bennett attached hereto as composite Exhibit "A." The EPA has also consistently concluded that these emissions should be accounted for in the design and implementation or the operating procedure for the process and control equipment. EPA has concluded that "[w]ithout clear definition and limitations, these automatic exemption provisions [for startups and shutdowns] could effectively shield excess emissions arising from poor operation and maintenance or design, thus precluding attainment." (Bennett 9/28/82).

Accordingly, these emission should have been considered in the BACT analysis and the related health impacts addressed in conjunction with the environmental review required pursuant to Rule 62-210.200(38), F.A.C. Permits issued by other states include limits on startup and shutdown emissions. Thus, the CITY recommends that a permit condition be included that specifically limits the number, duration, and emissions during startups and shutdowns, to comply with BACT and MACT.

#### **BACT Determination Not Federally Enforceable**

The DEP made BACT determinations for PM10, SO<sub>2</sub>, NO<sub>x</sub>, CO and SAM to satisfy the prevention of significant deterioration ("PSD") regulations. Technical Evaluation at TE-6 and Permit at 2. These determinations must be federally enforceable. The NSR Manual<sup>3</sup> provides that "to complete the BACT process, the reviewing agency must establish an enforceable emission limit for each subject emission unit at the source

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<sup>3</sup> U.S. EPA, New Source Review Workshop Manual. Prevention of Significant Deterioration and Nonattainment Area Permitting, Draft, October 1990.

and for each pollutant subject to review that is emitted from the source." NSR Manual at B.56.

The limits in the Permit must be practically enforceable to qualify as legitimate restrictions on emissions. Practical enforceability means the source and/or enforcement authority must be able to show continual compliance (or noncompliance) with each limitation or requirement. See, U.S. v. Louisiana-Pacific Corp., 682 F.Supp. 1122, Civil Action No. 86-A-1880 (D. Colorado, March 22, 1988). The draft Permit does not contain practically enforceable limits on PM10, SO<sub>2</sub>, or SAM.

#### The Draft Permit Does Not Contain Turbine PM10 Limits

The DEP did not establish any limits for PM10 emissions from the turbines, although it has done so in other recently issued permits. Permit at III.A.13 and III.B.10. Instead, it lists emission rates that it "expects" to be met, arguing that fuel specifications, CO limits, and visible emission standards are substitutes. However, there is no demonstrated relationship between PM10 and visible emissions, CO and fuel specifications.

Further, PM10 originates from many sources besides fuel sulfur, including ambient particulates, steam injected into the turbine for power augmentation, and contaminants in the fuel and in the combustion system. Thus, these surrogates are not replacements for a federally enforceable emission limit on PM10 itself that is demonstrated in annual source tests.

#### Turbine PM10 Limits Are No Federally Enforceable

The PM/PM10 limits are not practically enforceable because the Permit contains inadequate monitoring requirements (PM/PM10). Condition III.B.14 requires a single

source test for PM/PM10 from the simple cycle turbines only. No subsequent source tests for PM10 are required for these turbines. Permit at III.A.18. This is inconsistent with federal case law, which requires that limits be established for all pollutant for which BACT is established and that each individual limit (when one is appropriately established) is federally enforceable.

One source test is not adequate to assure continuous compliance because PM10 emissions are highly variable and emissions on initial testing represent "new and clean" conditions. Turbine performance degrades and emissions increase over time.

The CITY request that DEP establish firm PM10 emission limits, expressed in pounds per million Btus, pounds per hour, and tons per year and require compliance demonstration in annual source tests.

#### PM10 From Cooling Tower Not Properly Limited

The BACT analysis established a PM10 drift rate of 0.0005% for the cooling tower but did not establish an enforceable PM10 permit limit for the tower. Instead, it simply repeated the BACT level without providing any means to determine compliance. Permit at III.D.1. CITY recommends that the circulating water flow rate and the total dissolved solids concentration in the circulating water be limited to those assumed in the BACT analysis. Appendix BD at BD-13 and -14.

#### CO Limit Not Federally Enforceable

The Permit establishes emission limits for CO. Permit Condition III.A.20 requires a CEMs for the combined cycle CTG, but Condition III.B.16 does not require a CEMs for the simple cycle CTGs. The NSR Manual recommends that compliance with emission limits be demonstrated, continuously, where feasible. It is feasible to



continuously monitor CO, and, in fact, CEMs are commonly required to determine compliance with CO. Therefore, CITY requests that DEP require CO CEMs to demonstrate compliance with the CO limits for the simple cycle CTGs.

#### No Limits on Minor Sources

The draft Permit exempts the diesel generator, fuel heater, and diesel fire pump engine, based on small source exemptions in Florida regulations. (Permit at III.D) However, these are state exemptions that do not apply to federal programs, such as the PSD regulations, which are part of Florida's SIP. The PSD regulations do not allow exemptions for minor sources. These sources, although individually minor, must use BACT and be regulated by permit, pursuant to Rule 62-210.200(112), F.A.C., which defines a facility as "all of the emissions units which are located on one or more contiguous or adjacent properties, and which are under the control of the same person (or persons under common control)." Thus, CITY requests that the Permit be modified to require BACT for these minor sources and to establish emission limits and operating hours, consistent with emissions estimates in the Application.

#### SO<sub>2</sub> And SAM Not Properly Limited

Finally, the draft Permit does not establish any emission limits for either SAM or SO<sub>2</sub> to determine compliance with the BACT determinations, instead arguing that compliance with the BACT determinations, instead arguing that compliance with fuel sulfur specifications is adequate. (Permit at III.A.14 and III.B.11.)

The fuel sulfur specifications themselves do not require any monitoring, instead accepting the vendor's analysis for each month of operation. (Permit at III.C.6.) BACT emission limits must be met on a continual basis at all levels of operation. (NSR Manual

at B.56.) Thus, the Permit must be modified to require continuous monitoring of fuel sulfur.

## **HAZARDOUS AIR POLLUTANTS (HAPs)**

### **Diesel Exhaust**

The Plant intends on using diesel in the emergency generator and firewater pump engine. The combustion of diesel in these engines would produce "diesel exhaust," which is recognized by the U.S. Environmental Protection Agency (EPA) and California as a potent human carcinogen and respiratory irritant. The CITY is deeply concerned about the impact of these emissions, as well as others, set out below, on the residents of Margate. CITY maintains these emissions should have been considered as a collateral environmental impact in a formal BACT analysis for these engines, pursuant to the definition of BACT at F.A.C. 62-210.200(38) and federal guidance.

### **Maximum Achievable Control Technology for HAPs Required**

The applicant's estimates of hazardous air pollutant ("HAPs") did not consider the significant increase in these emissions that occurs during startups and shutdowns. (Application at 2-16.) The emissions of NO<sub>x</sub>, CO, VOCs, and individual HAPs increase during startups.

It is well documented that turbine performance, in terms of combustion efficiency, degrades as load decreases. Turbines are designed to run efficiently at full load where fuel combustion is nearly 100% efficient. During startup and shutdowns when loads fall below 50%, turbine combustors are extremely inefficient, which results in incomplete combustion. The three simple cycle turbines would experience frequent

startups (the number was not disclosed). The emissions from these low load periods should have been included in the HAP emission estimates and in health risk assessments.

When HAP emission estimates are revised to include startups, formaldehyde emissions substantially exceed the 10 ton/yr threshold for any single HAP and combined HAP emissions exceed the 25 ton/yr combined HAP threshold. In fact, if each turbine experienced as few as 100 startups per year, lasting only 10 minutes, the emissions of formaldehyde would exceed 10 ton/yr *per turbine* and require the use of maximum achievable control technology ("MACT"), pursuant to Rule 62-204.800, F.A.C.

There are currently no source category MACT standards for combustion turbines. However, EPA published an Interpretive Rule on May 25, 2000<sup>4</sup> clarifying that case-by-case MACT analyses under 40 CFR 63, Subpart B, are required for major stationary source combustion turbines such as this project. Therefore, a case-by-case MACT analysis should be performed. Normally, MACT for gas turbines is an oxidation catalyst, which is also required here to control CO emissions.

## **BROWARD COUNTY**

Finally, regulations governing air permits at F.A.C. 62-210.300(4)(d) require that each facility located within the borders of Broward County must comply with the requirements of Broward County. The Plant does not comply with Broward County requirements.

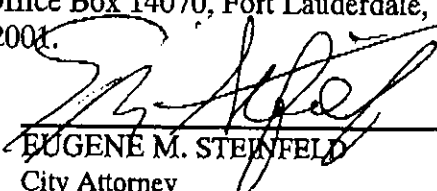
The applicant has not prepared an acceptable pollution prevention plan ("PPP"), as required by Broward County Code ("BCC") Section 27-178. The PPP should achieve a reduction in the generation of regulated air pollutants. The emissions of all regulated

pollutants from BEC exceed the criteria established in this code section, requiring the preparation of a PPP. The PPP should lay out a plan to implement "reasonably available technically and economically feasible alternatives" to the proposed levels of emissions. BCC Sec. 27-178(2) and (3)(c).

WHEREFORE, Petitioner CITY, respectfully requests a formal administrative evidence hearing, de novo, pursuant to Chapter 120, Florida Statutes, to resolve disputed issues of material fact and law and that the DEP should not issue Permit No. 0112545-001-AC (PSD-FL-316) or, in the alternative, should amend the Permit to comply with BACT requirements and should prohibit diesel oil from being used at this Facility  
Respectfully submitted this 4<sup>th</sup> day of September, 2001.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via facsimile and regular U.S. mail to: the State of Florida Department of Environmental Protection, Marjory Stoneman Douglas Building, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000 (850-921-3000) and via regular U.S. mail to Joel Gustafson, Esquire, Holland & Knight, Post Office Box 14070, Fort Lauderdale, Florida 33302-4070 this 4<sup>th</sup> day of September, 2001.

  
EUGENE M. STEINFELD  
City Attorney  
City of Margate  
5790 Margate Blvd.  
Margate, FL 33063  
(954) 972-6454

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<sup>4</sup> National Emission Standards for Hazardous Air Pollutants for Source Categories, Federal Register, v. 65, no. 102, May 25, 2000.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 10460

SEP 28 1982

OFFICE OF  
AIR, NOISE AND RADIATION**MEMORANDUM**

**SUBJECT:** Policy on Excess Emissions During Startup, Shutdown, Maintenance, and Malfunctions

**FROM:** Kathleen M. Bennett

**TO:** Assistant Administrator for Air, Noise and Radiation  
Regional Administrators, Regions I-X

This memorandum is in response to a request for a clarification of EPA's policy relating to excess emissions during startup, shutdown, maintenance, and malfunctions.

Excess emission provisions for startup, shutdown, maintenance, and malfunctions were often included as part of the original SIPs approved in 1971 and 1972. Because the Agency was inundated with proposed SIPs and had limited experience in processing them, not enough attention was given to the adequacy, enforceability, and consistency of these provisions. Consequently, many SIPs were approved with broad and loosely-defined provisions to control excess emissions.

In 1978, EPA adopted an excess emissions policy after many, less effective attempts to rectify problems that existed with these provisions. This policy disallowed automatic exemptions by defining all periods of excess emissions as violations of the applicable standard. States can, of course, consider any demonstration by no source that excess emissions were due to an unavoidable occurrence in determining whether any enforcement action is required.

The rationale for establishing these emissions as violations, as opposed to granting automatic exemptions, is that SIPs are ambient-based standards and any emissions above the allowable may cause or contribute to violations of the national ambient air quality standards. Without clear definition and limitations, these automatic exemption provisions could effectively shield excess emissions arising from poor operation and maintenance or design, thus precluding attainment. Additionally, by establishing an enforcement discretion approach and by requiring the source to demonstrate the existence of an unavoidable malfunction on the source, good maintenance procedures are indirectly encouraged.

EXHIBIT "A"

-2-

Attached is a document stating EPA's present policy on excess emissions. This document basically reiterates the earlier policy, with some refinement of the policy regarding excess emissions during periods of scheduled maintenance.

A question has also been raised as to what extent operating permits can be used to address excess emissions in cases where the SIP is silent on this issue or where the SIP is deficient. Where the SIP is silent on excess emissions, the operating permit may contain excess emission provisions which should be consistent with the attached policy. Where the SIP is deficient, the SIP should be made to conform to the present policy. Approval of the operating permit as part of the SIP would accomplish that result.

If you have any questions concerning this policy, please contact Ed Reich at (382-2807).

Attachment

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MARGATE  
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