

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL REGULATION

DER

MAR 6 1986

BAQM

COLLIER COUNTY DEMOCRATS'  
ENVIRONMENTAL COMMITTEE,

Petitioner,

v.

OGC FILE NO. 86-0093

COLLIER COUNTY BOARD OF  
COUNTY COMMISSIONERS and  
STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION,

ORDER FOR MORE DEFINITE

STATEMENT

Respondents.

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Petitioner, Collier County Democrats' Environmental Committee, has filed a document for formal administrative proceedings pursuant to Section 120.57(1), Florida Statutes, regarding the Department's Intent to Issue Permit Number AC-11-109643.

The Division of Administrative Hearings has adopted rules of procedure pursuant to Section 120.53 and 120.65, Florida Statutes, which govern the contents of a petition for formal administrative proceedings. Specifically, Rule 22I-6.04, Florida Administrative Code, requires that all petitions for formal proceedings include:

- a. The name and address of each agency affected and each file or identification number;
- b. The name and address of the petitioner or petitioners, and an explanation of how his, her or their substantial interests will be affected by the agency determination;
- c. A statement of when and how petitioner or petitioners received notice of the agency decision or intent to render a decision;
- d. A statement of all disputed issues of material fact. If there are none, the petition must state there are none;
- e. A concise statement of the ultimate facts alleged, and the rules and statutes which entitle the petitioner or petitioners to relief;

- f. A demand for relief; and
- g. Other information which is alleged material.

The document submitted by petitioner does not comply with the requirements of Rule 22I-6.04, Florida Administrative Code.

Therefore,

IT IS ORDERED that

Petitioners shall have ten days from the date of this Order to file with the Office of General Counsel for the Department of Environmental Regulation a More Definite Statement in compliance with Rule 22I-6.04. Failure to respond in accordance with the requirements cited hereinabove shall result in a Dismissal with prejudice of the request for a hearing.

DONE and ORDERED this 17 day of February, 1986, in Tallahassee, Florida.

FILING AND ACKNOWLEDGEMENT

FILED, on this date, pursuant to §120.52 (9), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

Peggy L. Brown  
Clerk

2-18-86  
Date

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION

Victoria J. Tschinkel  
VICTORIA J. TSCHINKEL  
Secretary

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32301-8241  
Telephone: 904/488-4805

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing ORDER FOR MORE DEFINITE STATEMENT has been furnished to Bob Krasowski, Collier County Democrats' Environmental Committee, 607 108th Avenue North, Naples, Florida 33963, and Peter Cunningham, Hopping, Boyd, Green & Sams, P.O. Box 6526, Tallahassee, Florida 32301 on this 18th day of February, 1986.

Julia D. Cobb  
JULIA D. COBB  
Assistant General Counsel

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32301

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL REGULATION

DER  
MAR 6 1986  
BAQM

COLLIER COUNTY DEMOCRATS'  
ENVIRONMENTAL COMMITTEE,

Petitioner,

v.

OGC FILE NO. 86-0092

COLLIER COUNTY BOARD OF  
COUNTY COMMISSIONERS and  
STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION,

ORDER FOR MORE DEFINITE  
STATEMENT

Respondents.

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Petitioner, Collier County Democrats' Environmental Committee, has filed a document for formal administrative proceedings pursuant to Section 120.57(1), Florida Statutes, regarding the Department's Intent to Issue Permit Number AC-11-109642.

The Division of Administrative Hearings has adopted rules of procedure pursuant to Section 120.53 and 120.65, Florida Statutes, which govern the contents of a petition for formal administrative proceedings. Specifically, Rule 22I-6.04, Florida Administrative Code, requires that all petitions for formal proceedings include:

- a. The name and address of each agency affected and each file or identification number;
- b. The name and address of the petitioner or petitioners, and an explanation of how his, her or their substantial interests will be affected by the agency determination;
- c. A statement of when and how petitioner or petitioners received notice of the agency decision or intent to render a decision;
- d. A statement of all disputed issues of material fact. If there are none, the petition must state there are none;
- e. A concise statement of the ultimate facts alleged, and the rules and statutes which entitle the petitioner or petitioners to relief;

- f. A demand for relief; and
- g. Other information which is alleged material.

The document submitted by petitioner does not comply with the requirements of Rule 22I-6.04, Florida Administrative Code.

Therefore,

IT IS ORDERED that

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DONE and ORDERED this 17 day of February, 1986, in Tallahassee, Florida.

FILING AND ACKNOWLEDGEMENT

FILED, on this date, pursuant to §120.52 (9), Florida Statutes, in the designated Department Clerk, receipt of which is hereby acknowledged.

Peggy L. Blount  
Clerk

2-18-86  
Date

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION

Victoria J. Tschinkel  
VICTORIA J. TSCHINKEL  
Secretary

Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32301-8241  
Telephone: 904/488-4805

CERTIFICATE OF SERVICE

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Julia D. Cobb  
JULIA D. COBB  
Assistant General Counsel

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL REGULATION  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32301

Request for formal administrative proceedings Section 120.53 (1)  
COLLIER COUNTY DEMOCRATS' ENVIRONMENTAL COMMITTEE, Petitioner  
OGC FILE NO. 86-0092

A. State of Florida Department of Environmental Regulation

Twin Towers Office Building      DER File No. AC II-109642  
2600 Blair Stone Road              AC II-109643  
Tallahassee, Fl. 32301              PSD-FL-III

Collier County Board of Commissioners  
3301 Tamiami Trail East  
Naples, Fl. 33962

**RECEIVED**  
FEB 27 1986

Dept. of Environmental Reg.  
Office of General Counsel

B. Collier County Democrats' Environmental Committee

607 108th Ave. N.  
Naples, Fl. 33963

The proposed facility will incinerate imported and non-of-  
fensive wastes therefore increasing, unnecessarily, air emissions.  
This facility appears to be hazardous in regard to the health and  
safety of our members, the general community and environment.

Phil and Natalie Fisher  
4730 Golden Gate Parkway Unit A  
Naples, Fl. 33999

The Fisher family lives 1.25 mile from the proposed facility  
site and there is insufficient proof that this facility is safe  
in regards to human health. The Fishers also have property in-  
vestment 1.25 mile from the proposed facility.

Richard Brenner  
PO BOX 441  
Naples, Fl. 33939

**DER**  
MAR 6 1986  
**BAQM**

Mr. Brenner was going to build a home on the property he  
owns 1.25 mile from the proposed facility site, but because of in-  
sufficient proof of plant safety and the threat of air emission  
pollution, he has postponed building his home and will not build  
all together if plant is built.

John and Michelle Mansika  
3093 52nd S.W.  
Naples, Fl. 33999

Mr. Mansika is a member of several school advisory committees  
in the vicinity of the proposed facility. School advisory

committees are charged with protecting the health and safety of children in the Collier County School System. The Mansika family also lives three miles from the proposed facility and have property investment.

#### Research

Endangered Species<sup>A</sup> Foundation, Inc.

PO. Box 424

Naples, Fl. 33939

Dioxin emissions have proven to be extremely toxic to certain animals in the food chain. This food chain is the very same that supports the Florida panther and Southern Bald Eagle as well as many other animals.

C. The Collier County Democrats' Environmental Committee purchased a copy of the notice, permit application, technical evaluation and preliminary determination from the Ft. Myers DER Office on January 23, 1986. It has been confirmed, however, that the Ft. Meyers DER Office had the above mentioned material in its possession on January 15, 1986 and denied to us that it was in their possession until January 21, 1986. According to the published legal notice, the above mentioned material was to be available at the Ft. Myers DER Office on January 16, 1986.

D. 1. The proposed plant will incinerate imported and non-offensive wastes causing annual emissions to double, therefore increasing air emissions above the significant PSD emission rates listed in Table 500 of FAC rule 17-2.500.

2. Data provided in the application are based on mass-burn facilities and can not be automatically applied to fluidized bed technology used to this scale, incinerating the types of fuels proposed, therefore there is insufficient proof that the proposed plant will function in accordance with DER guidelines as set forth in the Technical Evaluation and Preliminary Determination (I/10/86).

3. Contrary to statements made in the application, stabilized sewage sludge is contracted to be processed in this facility, thus requiring additional air quality permit application information because of increased mercury emissions, 40 CFR 61. (Exhibit A).

4. There is insufficient proof that dioxin levels won't be harmful to wildlife and humans.

E. 1. The proposed facility will incinerate an excessive amount of materials, much more than is needed to manage Collier County's solid wastestream, therefore increasing air emissions unnecessarily and contrary to the intent of Florida State law.

2. There is insufficient proof that this proposed facility will operate within DER guidelines, therefore it is impossible to ascertain what effects the proposed facility will have on air quality, human health and the condition of living and non-living natural resources.

It is contrary to the intent of FS 403.021 for this permit to be issued since the proposed facility will incinerate imported materials and other materials that can be better handled in a less offensive manner.

Under 403.412 (5) the petitioner is entitled to petition for relief.

FS 403.512 (1) requires comment on the fact that the Service Agreement between Collier County Florida and Resource Recovery of Collier, Inc. states that stabilized sewage sludge will be processed at this facility (exhibit A), this is contrary to information found in the application for permit.

In permitting this facility the DER does not fulfill the responsibility placed on the department by FS 403.704 (3).

To issue a permit to this applicant is contrary to the requirement of reasonable assurance Chapter 17-7.03 (3a) of Resource Recovery and Management (DER 1985), as cross-reference in regards to requirements of FS 403.

Note: Statutes cited in regards to the specific points made in section E. of this petition also have a broader application in relation to other material included in sections D and G.

F. As a demand for Relief the petitioner requires denial of permits (nos. AC II-109642 AC II-109643 PSD-FL-III) until the applicant alters facility usage to the disposal of only those waste materials generated within the boundaries of Collier County that have an environmentally offensive nature in a pre-incinerated state that is more offensive than in a post-incinerated state and that has no value whatsoever as recycled material.

G. Weather data for dispersion model is not taken from proposed facility site.

Imminent standards for dioxin levels and acid rain components may require modification of project.

There is insufficient proof that plant emissions will not negatively affect Class I air emission standards required for Everglades National Park.

BACT Determination Rational as contained in the Technical Evaluation and Preliminary Determination (1/10/86) is based on a dissimilar facility in Broward County.

For the Collier County Democrats'

Environmental Committee,

*Bob Krasowski* 2-26-86  
Bob Krasowski, chairman



calculation of Energy Revenues. The Company shall also pay the current fee paid by Designated Delivery Agents to deliver such Acceptable Waste to the Facility.

Section 4.18. Tires, Wood Chips and Stabilized Sewage Sludge.

The Company recognizes that discarded tires located within the County are Solid Waste which shall be disposed of in accordance with the County's solid waste control ordinance attached hereto as Schedule 21 and that the Company agrees not to enter into any agreements with any Person to purchase such tires. The Company may enter into any agreements with any Person for the disposal of tires from locations other than within the County at the Facility, provided such agreements do not violate the terms of this Agreement, interfere with the rights of the County hereunder, or violate any provision of Applicable Law.

EX. A  
→

The Company and the County agree that, notwithstanding anything to the contrary in the definition of Acceptable Waste in Section 1.1 of this Agreement, the County shall be entitled to include and the Company shall be obligated to accept tires, Stabilized Sewage Sludge from sewage generated within Collier County and wood chips as part of the Guaranteed Annual Tonnage.

The County shall not deliver more than 25 tons of Stabilized Sewage Sludge to the Facility on any day, or an amount more than 3.5% of the Guaranteed Annual Processing Capacity in any Contract Year. The Company shall under no circumstances be entitled to bypass to the Landfill any Stabilized Sewage Sludge delivered to the Facility. It shall be the obligation of the Company to Process, store or otherwise properly and lawfully dispose of all such Stabilized Sewage Sludge delivered to the Facility.

Section 4.19 Pelletizing or Briquetting.

Company may at any time pelletize or briquette any or all of the waste received at the Facility. County shall only be charged a pelletizing or briquetting fee of \$12 per ton if pelletizing or briquetting is required in order for the Company to avoid the diversion of waste caused from the County's waste stream for the reasons set forth in section B.1 (a) (b) and (c) of Schedule 1.

Prior to the commencement of each Contract Year, the Company and County in good faith shall agree on a maximum amount of County waste reasonably required to be pelletized or briquetted during the upcoming Contract Year based upon waste projected to be delivered to the Facility by the County and scheduled maintenance that will require the Facility to pelletize or briquette waste. If the County and the Company are unable to agree on such an amount, the dispute will be resolved in accordance with Article XII.

Collier County Democrats' Environmental  
Committee

Bob Krasowski, chairman

607 108th Ave. N.

Naples, Fl. 33963

813-597-3301

**RECEIVED**

FEB 10 1988

February 6, 1986  
Dept. of Environmental Regulation  
Office of General Counsel

28-5.15 Requests for Formal and Informal Proceedings

- a) Department of Environmental Regulation, State of Florida.  
DER File Nos. AC II-109642 ACII-109643
- b) Collier County Democrats' Environmental Committee  
Bob Krasowski  
607 108th Ave. N.  
Naples, Fl. 33963

Phil and Natalie Fisher  
4730 Golden Gate Parkway  
Naples, Fl. 33999

Mr. and Mrs. Richard Brenner  
29th Ave. S.W.  
Naples, Fl. 33999

Endangered Species Research Foundation, INC.  
Jim McMullin  
P.O. Box 24  
Naples, Fl. 33939

- c) Weather data which determines the basis of established emissions quantity is not founded on local weather patterns.

Information regarding dioxin formation and emissions are not up to date.

The technology used in the proposed plant is experimental and studies done on solid waste fuel emissions have not been conducted on garbage from the United States.

Permit application states that no sewage sludge will be burned in plant.

Permit application makes no mention of burning tires as a large component of fuel requirement.

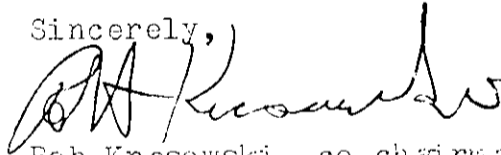
Data relating to air emissions from the burning of carbon materials (chipped tires) not included in permit application.

- d) Weather data relating to the specifics of our regions meteorological conditions is limited to data collected in Ft. Myers and Tampa which can not be said to be representative of specific conditions at the proposed plants location. Studies support the position that dioxins are formed while emissions exit through the smokestack. A substantial number of our members and other petitioners would be affected by these emissions. All data contained in permit application relates to emissions of mass burn plants as opposed to fluidized bed.

The Service Contract between Collier County and Resource Recovery Inc. states on page W/49 that the plant shall be obligated to accept stabilized sewage sludge from the County. The Service Contract states on page 29/I that 200 # of chipped tires will be burnt per week. All of these points indicate there is insufficient proof this facility will not be detrimental to the health and welfare of the community.

- e) Informal attempts have been made to resolve this issue by contacting Collier County Attorney Mr. Burt Saunders with the hope of modifying this project, adequate modification of the project through this channel is unattainable.
- f) We request that this permit be denied due to the fact that this facilities projected emissions data is based on insufficient and erroneous data.
- g) The permit allows for the operation of this facility which requires the burning of imported materials which multiplies the pollutants-emissions that occur as a result of incineration.

Sincerely,



Bob Krasowski, co chairman, Collier  
County Democrats' Environmental  
Committee