

Gibson, Victoria

From: Veazey, Sandra
Sent: Friday, December 16, 2005 2:11 PM
To: Gibson, Victoria
Subject: RE: Solutia

Yes. Thanks

-----Original Message-----

From: Gibson, Victoria
Sent: Friday, December 16, 2005 1:09 PM
To: Veazey, Sandra
Subject: Solutia

Happy Friday!

Have you received a copy by fax from OGC of the denial on Solutia.....if not I will fax you a copy right away.

Vickie

Victoria Gibson, Administrative Secretary for
Trina Vielhauer, Chief
DEP/Bureau of Air Regulation
victoria.gibson@dep.state.fl.us
850-921-9504 fax 850-921-9533

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

SOLUTIA, INC.,
Petitioner,

vs.

OGC CASE NO. 05-2757

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Respondent,

**ORDER DENYING REQUEST FOR EXTENSION
OF TIME TO FILE PETITION FOR HEARING**

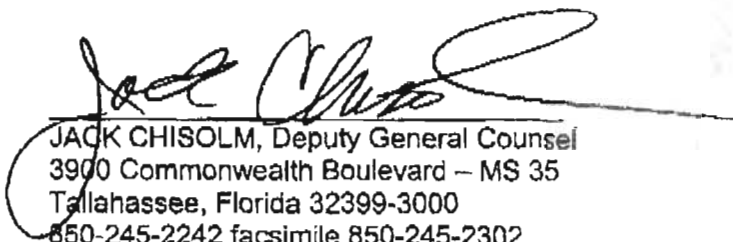
This cause has come before the Florida Department of Environmental Protection (Department) on receipt of a request made by the Petitioner, Solutia, Inc., to grant an extension of time to file a petition for administrative proceeding regarding a letter sent by the Department on November 9, 2005. Because the request fails to show good cause for the extension of time,

IT IS ORDERED:

The request for an extension of time to file a petition for administrative proceeding is DENIED. The Petitioner shall have until January 6, 2006, to file a petition in this matter. The petition must be filed (received) in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000 by 5:00 p.m. on January 6, 2006.

DONE and ORDERED this 16TH day of December, 2005, in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

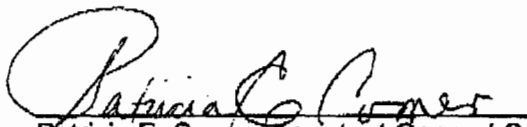

JACK CHISOLM, Deputy General Counsel
3900 Commonwealth Boulevard – MS 35
Tallahassee, Florida 32399-3000
850-245-2242 facsimile 850-245-2302

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via U.S. Mail this 16th day of December, 2005, to:

Peter C. Cunningham
Hopping, Green, & Sams, PA
123 South Calhoun Street
Tallahassee FL 32314

Rebecca M. Peterson, Plant Manager
Solutia, Inc.
Post Office Box 97
Gonzalez, Florida 32560-0097



Patricia E. Comer, Assistant General Counsel
FL Bar 0224146
Department of Environmental Protection
3900 Commonwealth Boulevard – MS 35
Tallahassee, FL 32399-3000
Telephone: (850) 245-2242
Facsimile: (850) 245-2297

with a courtesy copy to:

Trina Vielhauer, Chief
Bureau of Air Regulation

facsimile: 850-921-9533

Sandra Veazey
Northwest District

facsimile: 850-595-8096

Gibson, Victoria

From: Vielhauer, Trina
Sent: Thursday, December 15, 2005 2:19 PM
To: Gibson, Victoria
Subject: FW: Solutia

Sorry- should have cc'd you, too.

From: Vielhauer, Trina
Sent: Thursday, December 15, 2005 1:47 PM
To: Comer, Patricia
Cc: Koerner, Jeff
Subject: Solutia

Pat,
Jeff and I had a chance to discuss Solutia. We would like to deny its request for an extension of time to petition. If you want to discuss further [I think we chatted about it late last week], give me a call.

Thanks!

Trina

Gibson, Victoria

From: Crandall, Lea
Sent: Friday, December 09, 2005 10:47 AM
To: Gibson, Victoria
Subject: Solutia vs. DEP

Yes, I assigned that case. OGC Case No.: 05-2757 and Pat Comer is the attorney.

Thanks,
Lea

Lea Crandall

Agency Clerk
Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, FL 32399-3000
Phone: (850) 245-2212 SC: 205-2212
Fax: (850) 245-2303

4:00 pm



Florida
Department of
Environmental Protection

Jeb Bush
Governor

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

Colleen M. Castille
Secretary

F A X T R A N S M I T T A L S H E E T

DATE: 12/5/05

TO: Lea Crandall

PHONE: _____

FAX: 245-2302

FROM: Vickie Gibson

PHONE: 921-9504

Division of Air Resources Management

FAX: **850.922.6979**

RE: Copy of Solutia's Letter for your files.

CC: _____

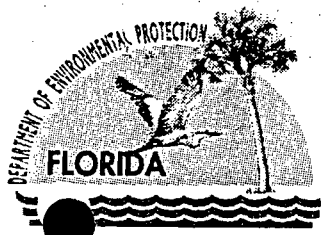
Total number of pages including cover sheet: 5

Message

If there are any problems with this fax transmittal, please call the above phone number.

"Protect, Conserve, and Manage Florida's Environmental and Natural Resources"

Printed on recycled paper



Jeb Bush
Governor

Department of Environmental Protection

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

Colleen M. Castille
Secretary

November 9, 2005

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Rebecca M. Peterson, Plant Manager
Solutia Inc.
Post Office Box 97
Gonzalez, Florida 32560-0097

Re: Solutia Inc., Boilers No. 4 and 5
Superheater Tube Replacement Project

Dear Ms. Peterson:

The Department in conjunction with EPA has considered the information in relation to the planned superheater tube replacement project and does not agree with Solutia's "determination of routine replacement." The proposed determination was that a planned project of replacing superheater tubes in Boilers No. 4 and 5 at the Pensacola Plant could be considered routine maintenance, repair or replacement and therefore exempted from the definition of *modification* in Rule 62-210.200 Florida Administrative Code (F.A.C.).

However, based on the information available to us and as more fully explained below, the Department's and EPA's opinion is that the planned project is not routine maintenance, repair or replacement under Florida regulations and EPA guiding policies. Therefore, the Department will require an application to perform the described work.

PROJECT BACKGROUND

The proposed project entails replacement of the superheater tubes for Boilers No. 4 and 5. The boilers are normally fueled by natural gas and ethane rich natural gas. No. 6 fuel oil is an alternate fuel which may contain blended on-specification used oil as supplemental fuel. Boilers 4 and/or 5 may also burn as supplemental fuels AGS (a mixture of organic acids from deep well waste stream), KATT (a mixture of organic esters), DME (Dimethyl Esters), Amines and Area 480 residue. Boilers No. 4 and 5 began operation in 1953 and 1956, respectively. So far as is known superheater tube leaks were found at a rate of 20-25 each time the boilers were shut down for repair. The entire tube assembly was never replaced for the two boilers. Emissions are controlled by proper combustion control and by fuel composition.

Superheater tubes transfer the heat in the furnace to the saturated steam in the tubes to generate superheated steam. The particulars of the superheater tubes are as follows:

"More Protection, Less Process"

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No. of Tubes per superheater	46
Number of Loops per superheater	5
Length of Tubes	128.55 feet (Gas Touched Surface)
The length of the heat transfer area	128.55 feet
The total heat transfer area is $46 \times \text{Pi} \times 1 \frac{7}{8}$ inches x 128.55 feet	2903 square feet
Material	A-213 T11 or equivalent per current industrial standards

According to your consultant's letter dated October 20, Solutia Boilers 4 and 5 have a heat input of 241 MMBtu/hr each. The company stated that numerous superheater tubes have experienced significant damage due to a number of reasons and that it is necessary to replace the entire superheater tubes in both the boilers to retain current unit operating capacity. The project cost is estimated at \$1.5 million and will require 8 weeks to complete.

The first issue is whether the project is exempt in accord with the Department's definition of a modification at Sections 62-210, F.A.C. The definition of modification at Section 62-210.200, F.A.C. states:

168. "Modification" - Any physical change in, change in the method of operation of, or addition to a facility which would result in an increase in the actual emissions of any air pollutant subject to regulation under the Act, including any not previously emitted, from any emissions unit or facility. (Emphasis added.)

The project is clearly a physical change and thus is eligible for consideration as a modification. The Department considered whether the project is exempt from the definition of modification as provided in Section 62-210.200(169)(a), F.A.C. This provision states:

A physical change or change in method of operation shall not include: 1. Routine maintenance, repair, or replacement of component parts of an emission unit. (Emphasis added.)

BASIS FOR OPINION

When assessing whether changes can be considered "routine" under the regulations, permitting authorities considers EPA's guidance for the following key factors: nature and extent, purpose, frequency, and cost. None of these factors on its own conclusively determines a project to be routine or not. Rather, the interrelationship of all factors is examined together. Based on the evaluation factors just listed, the Department's assessment of the proposed superheater tube replacement project is as follows:

- **Nature and Extent** – As indicated above, the project will include replacing the entirety of the existing superheater tubes with 46 new tubes for each boiler. This replacement differs from the more typical maintenance activities that are performed annually in that it involves complete replacement of all the tubes in a major component of the boiler, as opposed to replacement of just a few worn or damaged tubes or repairing tube leaks on an as-needed

basis. In addition, the expected duration of the tube replacement project for each boiler is approximately 30 days. The amount of time required for the project is significant.

Given the fact that the proposed project will consist of changing all of the superheater tubes with an improved design that is intended to substantially increase the life of the tubes, the nature and extent of the project is not routine in nature and differs in scale from the less extensive and incremental maintenance projects more typical for these boilers.

- Purpose – Although the Department acknowledges the need to perform safety related repairs to equipment, the fact that there are safety reasons for a project does not automatically render it routine maintenance, repair or replacement. Moreover, we are concerned that the project also serves as a life extension of the boiler. This concern is prompted by the age of the boilers (52 years for Boiler 4 and 49 years for Boiler 5) combined with the magnitude of the project (replacement of all superheater tubes in a major component of the boiler) and the intent to install thicker walls that should promote a longer tube lifetime.

Additionally, the information submitted to the District Office in Pensacola suggests that a forthcoming unrelated project could require additional steam generation from the two boilers compared to their typical steam generating capacity in the past. The proposed project therefore can be viewed as increasing the boilers capacity, operating rate and utilization. Consideration of increased capacity and utilization, therefore, supports a conclusion that the proposed project is not routine.

- Frequency – Boilers 4 and 5 began operation in 1953 and 1956, respectively. The superheater tubes in question have required repair every time the boiler is shutdown for maintenance. The number of leaks found has been increasing steadily over time. Currently, superheater tube leaks are found at a rate of 20-25 each time the boilers are shut down for repair. Although, we recognize that the repair of the tubes has occurred, our view is that an entire replacement of superheater tubes is not a frequent occurrence. Consideration of the frequency factor, therefore, supports a conclusion that the proposed project is not routine.
- Cost – The estimated cost of the proposed project is \$1.5 million. Although the project cost is less than 10 percent of the cost of a new comparable boiler, an added cost of \$1.5 million for the two boilers is high enough to be within the range of costs for projects that have been considered non-routine by EPA in other contexts.

The Department believes that when all of the factors used to assess whether a project can be considered routine maintenance, repair or replacement are considered together, the proposed project is considered not routine.

RECOMMENDATIONS

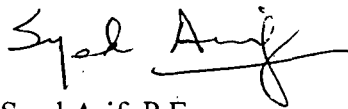
Please keep in mind the following when submitting a construction application for this project:

1. In order to keep the capability of operating the boilers at the maximum operating permitted rate of 525K lb/hr steam production (723 MMBtu/hr total for Boilers 4, 5 and 6), a PSD application may be required.

2. The Company can take a federally enforceable limit to keep the emissions increases less than significant as outlined in Table 62-212.400-2, F.A.C. This will keep the project a minor project and PSD will not apply to the modification.
3. The project can be undertaken when the New Source Review Reform provisions are adopted by Florida (expected to be in January 2006). The reform provisions will allow Solutia to compare past actual emissions of 24 consecutive months in the past 10 years to projected future actual emissions in determining PSD applicability. At present, past actual emissions of the last two years are compared to future potential emissions for PSD determination.

If you have any questions, please call me at 850/921-9528

Sincerely,



Syed Arif, P.E.
Bureau of Air Regulation
North Permitting Section

/sa

Cc: S. Veazy, DEP-NWD
K. Kosky, P.E., Golder Associates

THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the Matter of :
Solutia Inc., Boilers No. 4 and 5
Superheater Tube Replacement

RECEIVED
DEC 05 2005
BUREAU OF AIR REGULATION

REQUEST FOR ENLARGEMENT OF TIME

By and through undersigned counsel, Solutia Inc. (Solutia) hereby requests, pursuant to Florida Administrative Code Rule 62-110.106(4), an enlargement of time, to and including January 31, 2006, in which to file a Petition for Administrative Proceedings in the above-referenced matter. As good cause for granting this request, Solutia states the following:

1. On November 14, 2005, Solutia received from the Department of Environmental Protection ("Department") a letter dated November 9, 2005, stating that "the Department will require an application to perform the described work" relating to replacement of the superheater tubes in Bilers No. 4 and 5 at Solutia's Pensacola plant. The letter was addressed to Rebecca M. Peterson, Plant Manager, and signed by Syed Arif, P.E. of the Bureau of Air Regulation's North Permitting Section.


2. Based on Solutia's initial review of the Department's letter, there are several points that appear to warrant clarification and further discussion between representatives of Solutia and staff of the Department's Bureau of Air Regulation.

3. This request is filed simply as a protective measure to avoid waiver of Solutia's right to request an administrative hearing regarding the Department's proposed action as reflected in the letter dated November 9, 2005. Grant of this request will not prejudice either

party, but will further their mutual interests and hopefully avoid the need to file a Petition and proceed to a formal administrative hearing regarding the Department's letter dated November 9, 2005.

WHEREFORE, Solutia respectfully requests that the Department enter an order enlarging the time for Solutia to file a Petition for Administrative Proceedings in regard to the Department's letter dated November 9, 2005 to and including January 31, 2006.

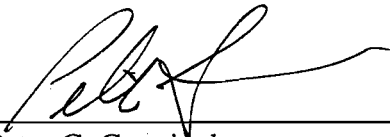
RESPECTFULLY SUBMITTED this 5th day of December, 2005.

By: 
Peter C. Cunningham
Florida Bar ID No. 0321907
Hopping Green & Sams, P.A.
123 South Calhoun Street
Post Office Box 6526
Tallahassee, Florida 32314
(850) 222-7500
(850) 224-8551 Facsimile

Attorneys for Solutia Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Hand Delivery to Lee Crandall, Agency Clerk, and Pat Comer, Assistant General Counsel, Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, Suite 300, Tallahassee, Florida 32399-3000; and Syed Arif, Florida Department of Environmental Protection, Division of Air Resource Management, 111 S. Magnolia Drive, Suite 23, Tallahassee, Florida 32399 this 5th day of December, 2005.



Peter C. Cunningham