

DER

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BAQM

Preliminary Determination

and Draft Permit

Hillsborough County Energy Recovery Facility

Hillsborough County, Florida

PSD - FL 104

Prevention of Significant Deterioration

40CFR 52.21

Review performed by Florida Department of Environmental Regulation

_____, 1986

I. INTRODUCTION

Pursuant to Section 403.505, Florida Statutes, Hillsborough County applied to the Florida Department of Environmental Regulation (DER) in August 1984 for certification of a steam electric generating, solid waste energy recovery facility at a site about two miles east of the town of Tampa on the county's Faulkenburg Road site. After a thorough review by DER, including public hearings, the Florida Power Plant Siting Board issued a site certification to the County. At that time, DER believed that such a site certification constituted a legal prevention of significant deterioration (PSD) permit under Chapter 17-2.500 of the Florida air pollution regulations which had been approved by the U.S. Environmental Protection Agency (EPA) on December 22, 1983. In the summer of 1985, EPA became aware that the Power Plant Siting Act (PPSA) under which the site certification was issued, supercedes all other state laws, including the law under which Florida's air pollution regulations are adopted. Consequently, the Florida PSD regulations are superceded by the PPSA, and could not legally be approved by EPA as part of the State Implementation Plan (SIP) since the PPSA does not comply with EPA's PSD regulations in several respects. Thus, the Hillsborough County energy recovery facility (ERF), which was under construction, did not possess a valid PSD permit.

EPA's remedy for this situation was to issue an Order under Section 167 of the Clean Air Act for Hillsborough County to either cease construction or apply for a federal PSD permit under 40 CFR 52.21. On December 13, 1985, Hillsborough County applied to DER for a PSD permit. (By that time, DER had been given authority by EPA to conduct the technical and administrative steps of the federal PSD permitting process.) In conducting the PSD review, EPA decided that, due to the unique circumstances of this permit application, the best available control technology (BACT) analysis would be conducted taking into account the factors affecting BACT at the time the County submitted a complete application for a site certification. That date was August 16, 1984.

The proposed project will be an energy recovery facility boiler which could use up to 1200 tons per day (TPD) of refuse as fuel. A proposed boiler expansion could increase the total solid waste processing capacity of the plant to 1600 TPD. The steam from the new boiler will be sent to a turbine generator with a capacity of 29 megawatts (MW) (gross). Hillsborough County ~~will~~ contract with a full service vendor to design, construct, and operate the plant for 20 years. Generated electricity will be transmitted to the Tampa Electric Company (TECO) ~~via the existing transmission line~~ for distribution over

the TECO transmission system. The generating capacity of the expanded plant should be approximately 39 MW. The primary purpose of the facility is to dispose of solid waste. In addition to electricity, steam, ferrous metals, and aluminum could be recovered resources. Non-processible waste (including non-combustibles and demolition debris) and unusable residue will be buried at a licensed, off-site sanitary landfill. The sale of electricity, and eventually other processed and recovered resources, will help offset the overall cost of owning and operating the facility.

The Energy Recovery Facility (ERF) will be located on approximately 50.4 acres within the County's existing Faulkenburg Road tract. The site is located approximately 0.6 miles north of State Road 60. It is bordered by Faulkenburg Road on the east and a TECO 230 KV transmission line corridor on the west, and the Seaboard System Railroad on the south. The plant site is mostly level grassy land with scattered trees in the northwest portion. The site has been recently used as improved pasture for cattle grazing. The topography is fairly level, with elevation ranging from 27 to 45 feet above sea level across the tract. Geology of the site shows an overburden of sand and clay lying over limestone and dolomite which forms the Floridan aquifer. The overburden forms a subsurface reservoir called the shallow aquifer. The proposed facilities will consist of a 29 MW steam electric generating turbine; three 400 tons per day mass-burn solid waste fired boilers; a mechanical draft cooling tower utilizing treated sewage effluent; a 220 foot flue gas stack and electrostatic precipitators. Provisions are made to allow the addition of another 400 tons per day boiler.

Tampa Electric Company's existing 230 KV transmission line corridor will be used to transmit the electricity from the Energy Recovery Facility (ERF).

II. Rule Applicability

The proposed site of the Hillsborough County ERF is in an area designated as nonattainment for ozone and particulate matter under 40 CFR 81.310, and attainment for all other criteria pollutants.

New major sources which emit attainment pollutants regulated under the Clean Air Act in amounts greater than certain significance levels, are subject to 40 CFR 52.21, Prevention of Significant Deterioration (PSD). The significance levels are specified by the PSD regulations.

New major sources in Hillsborough County which are subject to the PPSA and which are major for a nonattainment pollutant are subject to 40 CFR 52.24 Statutory restriction on new stationary sources (construction ban).

New municipal incinerators capable of charging greater than 50 TPD are also subject to 40 CFR 60, Subpart E, New Source Performance Standards (NSPS).

New municipal incinerators with a charging rate equal to greater than 50 TPD are also subject to Florida Rule 17-2.600(1)(c).

The applicant is proposing the construction of three 400 TPD mass burn technology incinerators for the processing of up to 1200 TPD of municipal solid waste. A fourth unit of similar size may be constructed in the future but will not be addressed in this review.

The maximum annual emissions from all three units for all regulated pollutants have been estimated by the applicant. These emission rates, and the PSD significant emission rates, are listed in Table II.1.

The proposed source has the potential to emit more than 100 tons per year of one or more regulated pollutants and is, therefore, subject to review for Prevention of Significant Deterioration (PSD) under 40 CFR 52.21. PSD review includes, among other requirements, a determination of Best Available Control Technology (BACT) and an air quality impact analysis for each attainment and noncriteria pollutant that would be emitted in a significant amount as listed in Table II-1. For the proposed source, the applicant has addressed PSD review for the eight pollutants which will be emitted in significant amounts: SO₂, CO, NO_x, Pb, Be, Hg, fluorides, and sulfuric acid mist.

The proposed source will emit less than 100 TPY of both particulate matter and VOC (precursor of ozone), and is thus not subject to the construction ban of 40 CFR 52.24. The proposed incinerators will each have a charging rate of 400 tons per day, and thus are subject to NSPS and 17-2.600(1)(c). NSPS requires that the source meet a particulate emission rate of 0.08 grains per day standard cubic foot (gr/dscf), corrected to 12% CO₂. Regulation 17-2.600(c) requires each incinerator to emit no more than .08 gr/dscf particulate corrected to 50% excess air.

III. Preliminary Determination

As noted in Section I, Table II-1, the proposed source will result in significant emissions of the criteria pollutants SO₂, CO, NO_x, and lead, and of the non-criteria pollutants mercury, beryllium, fluorides, and sulfuric acid mist.

The review required under the prevention of significant deterioration (PSD) regulations for these pollutants includes:

- ° Compliance with all applicable SIP, NSPS, and National Emission Standards for Hazardous Pollutants (NESHAP) regulations
- ° BACT
- ° An analysis of existing air quality;
- ° A PSD increment analysis (for SO₂ only);
- ° An Ambient Air Quality Standards (AAQS) analysis;
- ° An analysis of impacts on soils, vegetation, visibility, and growth-related air quality impacts, and;
- ° A "Good Engineering Practice" (GEP) stack height determination.

The analysis of existing air quality generally relies on preconstruction monitoring data collected in accordance with EPA-approved methods. The PSD increment and AAQS analyses depend on air quality dispersion modeling carried out in accordance with EPA guidelines. BACT is specified on a case-by-case basis considering environmental, economic, and energy impacts.

Based on these required analyses, the Department has reasonable assurance that the proposed units at the Hillsborough County ERF, as described in this report and subject to the conditions of approval proposed herein, will employ BACT, will not cause or contribute to a violation of any PSD increment or ambient air quality standard, and will comply with all applicable air pollution regulations. A discussion of all review components follows.

IV. Control Technology Review

a. BACT Determination

40 CFR 52.21 (j) requires that each pollutant subject to PSD review must be controlled by BACT. For the proposed three unit plant, eight pollutants are subject to BACT. The BACT emission limits proposed by the Department are summarized as follows:

<u>Pollutant</u>	<u>BACT</u>
Sulfur Dioxide	3.2 lb/ton
Nitrogen Oxides	3.0 lb/ton
Carbon Monoxide	1.8 lb/ton
Lead	.0050 lb/ton
Mercury	2200 grams/day
Beryllium	1.3 l x 10 ⁻⁵ lb/ton
Sulfuric acid mist	.077 lb/ton
Fluorides	.060 lb/ton

Also included as proposed permit conditions are limits on particulate emissions, opacity, and VOC. These limits are required to insure the emissions of particulate and VOC do not exceed the threshold level for applicability of the construction ban.

The applicant ultimately plans to construct a 1600 ton per day municipal solid waste (MSW) incinerator facility to be located on Faulkenburg Road in Tampa, Florida. The heat energy from combustion of the MSW will be used to produce steam to operate a 39 megawatt output turbine generator. Some of the electric energy produced will be used at the facility with the surplus power to be sold to the Tampa Electric Company.

The present plans are to install three 400 tons per day (TPD) incinerator-boiler units to process a total of 1200 TPD of MSW and generate 29 megawatts of electrical power. The fourth unit will be added at some future time. This BACT determination is for the three units only. Before the fourth unit is installed, the applicant must apply for a new permit for that unit.

Each incinerator will have an approximate heat input of 150 million Btu per hour, or 49 megawatts, based upon a MSW calorific content of 4500 Btu per pound. Each incinerator will be scheduled to operate 8760 hours per year and on this basis the tons per year of the various air pollutants emitted was calculated.

Based upon air pollutant emission factors provided by the applicant, the calculated total annual tonnage of regulated air pollutants emitted from the three units to the atmosphere is listed in Table II-1.

The applicant has proposed the following air pollutant emission limits, on a pound per ton basis: Particulate-0.41, CO-1.8, SO₂-3.2, NO_x-3.0, Pb-0.048, Hg-0.0052, Be-13.1 x 10⁻⁶, sulfuric acid mist-0.077, fluorides-0.06, and VOC-0.2 lb/ton. An electrostatic precipitator (ESP) will be used to control the particulate, Pb, Hg, and Be emissions. Design and operating procedures will control the emission of VOC, CO and NO_x. The firing of only MSW, a low sulfur content fuel, will limit SO₂ and sulfuric acid mist emissions.

The applicant has requested an emission limit for SO₂ to be 3.2 pounds per ton of MSW charged into the incinerator. Emission test data from Westchester County, New York and Gallatin, Tennessee solid waste combustion sources indicate

a range for SO₂ emissions from 2.6 to 3.5 pounds per ton of feed. The 3.2 figure is judged to be BACT. The amount of SO₂ emitted would be comparable to the burning of distillate oil having a 0.35 percent sulfur content. Burning low sulfur fuel is one acceptable method of controlling SO₂ emissions. The installation of a flue gas desulfurization system to control SO₂ emissions is not warranted when burning MSW.

The mercury emission limit determined as BACT is equal to 69% of the National Emission Standard for Hazardous Air Pollutants (NESHAP), 40 CFR 61.50, Subpart E, for municipal waste water sludge incineration plants. The provisions of this subpart, however, do not apply because no grease, scum, grit screenings or sewage sludge will be incinerated in the proposed incinerators. According to the report "Air Pollution Control at Resource Recovery Facilities" issued by the California Air Resources Board, the average mercury emission factor when firing MSW is 4×10^{-4} pounds per million Btu. This amounts to 30 grams per hour per unit and is not considered to have a major impact on the environment. The applicant has proposed a mercury emission rate of 0.0052 lb/ton which is 0.0013 lb/ton higher than the referenced factor. The BACT is determined to be 2200 grams/day.

The uncontrolled emission of beryllium, according to the California report, when firing MSW is estimated to be 6.2×10^{-6} pounds per million Btu. Uncontrolled beryllium emissions would be approximately 11 grams per 24 hours or 0.01 TPY. The operating temperature of the particulate matter emission control device will be below 500° F. Operation below this temperature is necessary to force absorption/condensation of beryllium oxides, present in the flue gas stream, onto available fly ash particles subsequently removed by the control device. Assuming 95% efficiency of the control device the annual beryllium emissions are estimated at 0.0007 tons per year. This amount of beryllium emitted is considered to have a negligible impact on the environment. The emission factor of 13.1×10^{-6} lb/ton MSW proposed by the applicant is judged to be BACT. If beryllium containing waste as defined in the National Emission Standards for Hazardous Air Pollutants (NESHAP), Subpart C, Subsection 61.31(g), were charged into the incinerator, emissions of beryllium to the atmosphere could not exceed 10 grams per 24 hours or an ambient concentration of 0.01 ug/m³, 30 day average. Compliance with this beryllium emission limit would be in accordance with NESHAP, Subpart C. However, the applicant has not applied to burn beryllium-containing waste, and the permit prohibits this activity.

The temperature of the incinerator combustion gases at the inlet to the particulate control device is estimated to be 425-475° F. At these temperatures any lead would be in a nonvaporous state and would be removed by the particulate control device. The uncontrolled emission of lead, according to the California Report, when burning MSW is estimated to be 0.022 pounds per million Btu. This amounts to 9.9 pounds per hour. Assuming 50% remains in the bottom ash, and 95% of fly ash is removed by the particulate control device, the amount of lead emitted to the atmosphere is 0.25 pounds per hour or 1.08 TPY which equals to 0.0050 lb/ton. The significant emission rate for lead is 0.6 TPY. Results from a series of 15 emission test runs conducted at Units 1 and 2 of the Pinellas County Resource Recovery Facility show an average lead emission rate of 0.0024 lb/ton. BACT is specified by the Department as 0.0050 lb/ton.

Since there are several secondary lead reclamation plants in the Tampa area, there is an economic incentive to recycle lead containing materials. The majority of lead emissions from an incinerator are expected to originate from solder joints in discarded electronic devices. The amount of lead emitted is not considered to have a significant impact upon the environment.

During combustion of municipal solid waste, NO_x is formed in high temperature zones in and around the furnace flame by the oxidation of atmospheric nitrogen and nitrogen in the waste. The two primary variables that affect the formation of NO_x are the temperature and the concentration of oxygen. Techniques such as the method of fuel firing to provide correct distribution of combustion air between overfire and underfire air, exhaust gas recirculation, and decreased heat release rates have been used to reduce NO_x emissions. A few add-on control techniques such as catalytic reduction with ammonia and thermal de-NO_x are still experimental, and are not considered to be demonstrated technology for the proposed project.

The proposed units will use proprietary grate and combustion controls to limit NO_x emissions at 3.0 pounds per ton of MSW charged. This level of control is judged to represent BACT.

Carbon monoxide is a product of incomplete combustion where there is insufficient air. Incomplete combustion will also result in the emissions of solid carbon particulates in the form of smoke or soot and unburned and/or partially oxidized hydrocarbons. Incomplete combustion results in the loss of heat energy to the boiler. The department agrees with the applicant that BACT is the grate and

combustion control system to insure sufficient mixing of the MSW and air so that the emission of products of incomplete combustion is minimized. The proposed CO emission rate is 1.8 pounds per ton. This level of control is judged to represent BACT.

Furthermore, CO has a calorific value of 4347 Btu/lb and when discharged to the atmosphere represents lost heat energy. Since heat energy is used to produce the steam which drives the generator to produce electric power, there is a strong economic incentive to minimize CO emissions.

Particulate matter emissions will be controlled by electrostatic precipitator (ESP). Each of the three proposed boilers will be equipped with its own ESP which will be efficient to 0.021 grains per dry standard cubic foot corrected to 12% CO₂ at the outlet. At this emission rate, particulate matter emissions for the facility will be approximately 96 tons per year.

VOC emissions, like carbon monoxide emissions, result from incomplete oxidation of carbon compounds. Control of CO and VOC emissions can be mutually supportive events.

The applicant indicates that sulfuric acid mist and fluorides will be emitted by the proposed facility. The applicant estimates that sulfuric acid mist will be emitted at a rate of 0.0768 pounds per ton of fuel combusted. This equates to a rate of 3.8 pounds per hour or 16.8 tons per year. The significant emission rate for sulfuric acid mist is 7.0 tons per year. Emissions of fluoride are estimated at 0.06 pounds per ton of fuel combusted. At this emission rate, fluorides would be emitted at a rate of 3.0 pounds per hour or 13.1 tons per year. The significant emission rate for fluoride is 3.0 tons per year. Control of these acid gas emissions would be obtained by a scrubber. However, at the level of these acid gas emissions, the addition of a scrubber for acid gas control would be uneconomical. No control is judged to represent BACT. In addition, BACT for the control of acid gas emissions is that the initial design of the proposed facility include provisions for the possible future installation of a wet or dry flue gas scrubber system, if deemed necessary.

b. NSPS and Florida SIP Limit Analysis

These two regulations dictate similar emission limits using slightly different units. The proposed particulate emission limit of 0.021 gr/dscf is far below either of these limits, and so will easily comply with them.

V. Air Quality Analyses

The air quality impact of the proposed emissions has been analyzed. Atmospheric dispersion modeling has been completed and used in conjunction with an analysis of existing air quality data to determine maximum ground-level ambient concentrations of the pollutants subject to BACT. Based on these analyses, the department has reasonable assurance that the proposed solid waste recovery facility in Hillsborough County, subject to these BACT emission limitations, will not cause or contribute to a violation of any PSD increment or ambient air quality standard.

a. Modeling Methodology

The EPA-approved Industrial Source Complex Short-term (ISCST) dispersion model was used in the air quality impact analysis. This model determines ground-level concentrations of inert gases or small particles emitted into the atmosphere by point, area and volume sources. The ISCST model allows for the separation of sources and several other features, such as the inclusion of building wake downwash. This model was used in both screening and refined analyses.

All modeling was completed assuming the operation of four incinerators. Since the current plans are for the construction of only three incinerators, the modeling results represent a slightly conservative estimate of ambient concentrations.

Screening analyses were initially run using 26 prescribed meteorological conditions with the stack and emission data of the proposed ERF. These runs determined the worst-case boiler operating condition, identified those pollutants emitted from the ~~ERF~~ with a potential for significant impact, and established receptor locations for the more refined modeling. The results of these analyses indicated that a 110 percent boiler load condition (440 tons per day throughput) yielded the greatest air quality impact with the maximum ground-level concentrations occurring approximately 400 meters from the stack. ←

The refined modeling analysis consisted of running ISCST using five years of sequential hourly meteorological data. The surface and upper air meteorological data used were National Weather Service data collected at Tampa, Florida during the period 1970-1974. Since five years of data were used, the highest, second-high short-term predicted concentrations are compared with the appropriate ambient standard or PSD increment.

An initial set of refined runs was made with emissions only from the proposed ERF. The significant impact area for SO₂ was then determined. This area is defined as the area enclosed by a circle whose radius is equal to the farthest distance from the facility in which a significant impact occurs. A significant impact is defined as 25 ug/m³ for a 3-hour average, 5 ug/m³ for a 24-hour average, and 1 ug/m³ for an annual average. For this project the significant impact area extends to a distance of approximately one kilometer. Beyond this distance the ~~RRF~~ ERF is assumed to have an insignificant SO₂ impact. ←

Modelled emission rates for some pollutants were higher than the BACT limits, which produced conservative estimates of ambient impacts. For a comparison of these rates, Table V-2 should be compared to the BACT emission rates in Section IV.a.

Other major SO₂ sources within about 30 kilometers of the proposed facility were modeled for impact within the significant impact area. The impacts of the other emitted pollutants were evaluated using emissions from the ERF only. Total ambient air quality impacts were based on the modeled impacts plus the monitored "background" concentrations.

The stack parameters and emission rates used in evaluating the ambient impacts are contained in Table V-1 and Table V-2, respectively. Copies of some of the critical model outputs and a description of the refined modeling analysis are attached to this determination in Appendix 1. Complete modeling printouts are available at the DER offices in Tallahassee, Florida.

b. Analysis of Existing Air Quality

Preconstruction ambient air quality monitoring is required for all pollutants subject to PSD review. In general, one year of quality assured data using an EPA-reference, or the equivalent, monitor must be submitted. Sometimes less than one year of data, but no less than four months, may be accepted when department approval is given.

An exemption to the monitoring requirement can be obtained if the maximum air quality impact, as determined through air quality modeling, is less than a pollutant-specific de minimus concentration. In addition, if current monitoring data already exist and these data are representative of the proposed source area, then at the discretion of the Department these data may be used. Such representative data must meet criteria for location, quality, and currentness outlined in EPA publication 450/4-80-012, Ambient Monitoring Guidelines for Prevention of Significant Deterioration.

The predicted maximum air quality impacts of the proposed ERF for the eight pollutants subject to PSD review are given in Table V-3 along with the monitoring de minimus levels. From this table it is seen that SO₂, lead, and fluorides have maximum predicted air impacts greater than the de minimus levels and are thus subject to preconstruction monitoring requirements. Sufficient data in the area, however, exists for SO₂ and lead. The department did not require additional monitoring for these pollutants, since the existing data comply with the requirements of EPA 450/4-80-012. Although fluorides are subject to the monitoring requirements, no EPA-approved method currently exists to measure the ambient concentration of this pollutant. Also, requirement for monitoring of noncriteria pollutants is at the discretion of the Department.

Table V-4 shows the monitored ambient air quality levels for the most recent year (1983) for all the criteria pollutants, including the required data for SO₂ and lead. These data were collected from existing monitors in Hillsborough County.

c. PSD Increment Analysis

1. Class II Area

The proposed Hillsborough County ERF is to be located in an area designated as a Class II attainment area for the pollutant SO₂. Because the proposed facility is to be located in an area designated as nonattainment for PM, a PSD increment analysis is required for SO₂ only.

The PSD increments represent the amount that new sources in the area may increase ambient ground-level concentrations of SO₂ and PM. At no time, however, can the increased loading of these pollutants cause or contribute to a violation of the ambient air quality standards.

All SO₂ emission increases from sources constructed or modified after December 1977 will consume PSD increment. In addition, all SO₂ emission increases associated with the construction or modification of major sources which occurred after January 6, 1975, will consume increment. For the proposed project all emissions from the ERF consume increment. Several other sources in the area have been identified by the applicant as also consuming PSD increment and have been included in the analysis.

The Department has identified four other sources as having the potential to consume additional PSD increment for SO₂. These sources are the Columbus Company, Couch Construction Company, Weyerhaeuser Company, and Scrapall

Company. The first two were included in the modeling for determination of total impact but not for the determination of increment consumption. The latter two were not included in any modeling. A review of these sources indicated that only Columbus Company and Couch Company could potentially have a significant impact on increment consumption in the area of the proposed project. These sources will not interact with the increment consuming sources already modeled by the consultant.

It should be noted that the major increment consuming source identified by the applicant is the TECO Big Bend power plant. All units at this plant were modeled as increment consuming. In actuality only Unit 4 consumes increment and these emissions are largely offset by emission decreases (increment expansion) from Units 1, 2 and 3. As such, increment consumption is greatly overestimated.

Atmospheric dispersion modeling was performed taking into account only those new sources which consume PSD increment. The results of this modeling are summarized in Table V-5.

2. Class I Areas

A Class I area increment analysis is required for the Chassahowitzka National Wilderness Area located 79.6 kilometers to the north-northwest. The impact of the proposed ERF on this Class I area was determined. Although the distance to the Class I areas is greater than 50 kilometers (the distance to which the models are generally considered valid) the results indicate an extremely small (insignificant) impact on this area.

d. AAQS Analysis

Given existing air quality in the area of the proposed Hillsborough County ERF, emissions from the new source are not expected to cause or contribute to a violation of an AAQS. The results of the AAQS analysis are contained in Table V-6.

Of the pollutants subject to PSD review only the criteria pollutants SO₂, CO, NO₂, and lead have an AAQS to compare with. All sources listed in Table V-1 were modeled to determine the maximum ground-level impacts for SO₂ within the area of significant impact. For CO, NO_x, and lead only the proposed ERF was modeled to determine the maximum ground-level concentrations.

The total impact on ambient air is obtained by adding a "background" concentration to the maximum modeled concentration. This "background" concentration takes into account all sources of the particular pollutant in question that were not explicitly modeled. A conservative estimate of these "background" concentrations is given by the second highest monitored concentration listed in Table V-4. This is a conservative estimate because sources used in the modeling may have contributed to the monitored value and hence contribute doubly to the total impact.

VI. Additional Impacts Analysis

a. Impacts on Soils and Vegetation

The maximum ground-level concentrations predicted to occur for the criteria pollutants as a result of the proposed project in conjunction with all other sources, including a background concentration, will be below all applicable AAQS including the secondary standards designed to protect public welfare-related values. As such these pollutants are not expected to have a harmful impact on soils and vegetation.

The applicant has additionally addressed the impacts of the noncriteria pollutants. No soils or species of vegetation near the proposed project are known to be sensitive to these pollutants at the concentrations predicted to occur. These pollutants include sulfuric acid mist, fluorides, mercury, beryllium, and hydrochloric acid. Hydrochloric acid (HCL) is not one of the PSD review pollutants but was included at the Department's request because of its large emissions.

b. Impact on Visibility

A level-1 visibility screening analysis was performed to determine any impact on the Chassahowitzka National Wilderness Class I area. The analysis showed that there was no potential for an adverse impact on visibility in this area due to emission from the proposed project.

c. Acid Rain Impact

The increased emissions of SO₂ and NO_x, precursors to possible acid formation and subsequent acidic rain, from the proposed project are extremely small in comparison with the emissions of these pollutants from nearby power plants. Thus, no significant adverse impact on the acidity of rainfall is expected as a result of this project.

d. Growth-Related Air Quality Impacts

The construction and operation of the proposed source will have a minor positive net effect on industrial and commercial development. The source will promote development by providing for solid waste disposal, and thereby be an integral part of the plans for development within Hillsborough County. On a regional basis this effect is not expected to be significant. The project is not expected to significantly change employment, population, housing, or commercial/industrial development in the area to the extent that an air quality impact will result.

e. GEP Stack Height Determination

Good engineering practice (GEP) stack height means the greater of: (1) 65 meters; or (2) the maximum nearby building height plus 1.5 times the building height or width, whichever is less. For the proposed project the building height is 42.7 meters above ground level and the projected width is 56.4 meters. Thus definition (2) above leads to a GEP stack height of 106.8 meters.

The proposed stack height is 67 meters. This is less than the GEP height. The applicant has addressed the possible increased ground-level concentrations (as a result of aerodynamic effects of the nearby building) by including a downwash mechanism in the modeling.

VII. Nonattainment Review

EPA announced approval of Florida's new source review program for major sources in designated nonattainment areas on March 18, 1980 (45 FR 17140). Subsequently, in 1985, EPA discovered that the Florida Power Plant Siting Act supercedes the nonattainment new source review regulations under Florida law. Consequently, the Florida nonattainment regulations have never actually been part of the federally approved SIP. For such situations, two sets of nonattainment regulations apply:

- (1) For sources located in designated nonattainment areas, EPA's construction ban (40 CFR 52.24) applies to major sources and major modifications, and
- (2) For sources locating in designated attainment or unclassifiable areas, EPA's Interpretative Ruling (40 CFR 51.18 Appendix S) applies to major sources and major modifications.

The proposed source will be located in an area designated nonattainment for particulate matter and ozone, but is not a major source for either pollutant, and is thus not subject to the construction ban. The source will be located 43.5 kilometers from an SO₂ nonattainment area and is a major source for SO₂. Under the Interpretative Ruling, the proposed source would be subject to certain more stringent requirements if the impact of its SO₂ emissions on the nearby nonattainment area exceeded 1 ug/m³ annual average, 5 ug/m³ 24-hour average, or 25 ug/m³ 3-hour average. The modeling analysis shows the impact of the proposed source to be less than each of those levels, so the Interpretative Ruling does not apply.

DRAFT PERMIT TO CONSTRUCT UNDER THE RULES FOR THE
PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY

Pursuant to and in accordance with the provisions of Part C, Subpart 1 of the Clean Air Act, as amended, 42 U.S.C. §7470 et. seq., and the regulations promulgated thereunder at 40 CFR §52.21, as amended at 45 Fed. Reg. 52676, 52735-41 (August 7, 1980),

Hillsborough County, Florida

is, as of the effective date of this permit (PSD-FL-104) authorized to construct a stationary source at the following location:

Two miles east of Tampa on a site owned by the County on Faulkenburg Road, 0.6 miles north of State Road 60.

Upon completion of authorized construction and commencement of operation/production, this stationary source shall be operated in accordance with the emission limitations, sampling requirements, monitoring requirements and other conditions set forth in the attached Specific Conditions (Part I) and General Conditions (Part II)

This permit is hereby issued on _____ and shall become effective thirty (30) days after receipt hereof unless a petition for administrative review is filed with the Administrator during that time. If a petition is filed any applicable effective date shall be determined in accordance with 40 CFR §124.19(f)(1).

If construction does not commence within 18 months after the effective date of this permit, or if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time, this permit shall expire and authorization to construct shall become invalid.

This authorization to construct/modify shall not relieve the owner or operator of the responsibility to comply fully with all applicable provisions of Federal, State, and local law. ←

Date Signed

Regional Administrator

PART I

Specific Conditions

1. Emission Limitations

a. Stack emissions from each unit shall not exceed the following:

- (1) Particulate matter: 0.021 grains per dry standard cubic foot corrected to 12% CO₂ (gr/dscf-12%) or 7.0 pounds per hour per unit, whichever is more restrictive.
- (2) Visible Emissions: Opacity of stack emissions shall not be greater than 15% opacity except that 20% opacity may be allowed for one six-minute period (average of 24 consecutive observations recorded at 15-second intervals) in any one hour. Excess opacity resulting from startup or shutdown shall be permitted providing (1) best operational practices to minimize emissions are adhered to and (2) the duration of excess opacity shall be minimized but in no case exceed two hours in any 24 hour period unless specifically authorized by EPA for longer duration.

Excess emissions which are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure which may reasonably be prevented during start-up or shutdown shall be prohibited. Opacity of other emission points at the plant shall not exceed 5%.
- (3) VOC: 0.01 gr/dscf-12%, or 0.2 lb/ton, whichever is more restrictive
- (4) SO₂: 0.17 gr/dscf-12% or 3.2 lb/ton, whichever is more restrictive
- (5) Nitrogen Oxides: 0.16 gr/dscf-12%, or 3.0 lb/ton, whichever is more restrictive
- (6) Carbon Monoxide: 0.093 gr/dscf-12%, or 1.8 lb/ton, whichever is more restrictive.
- (7) Lead: 0.00026 gr/dscf-12%, or 0.0050 lb/ton, whichever is more restrictive.
- (8) Fluorides: 0.0031 gr/dscf-12%, or 0.060 lb/ton, whichever is more restrictive.

- (9) Sulfuric Acid Mist: 0.0040 gr/dscf-12%, or 0.077 lb/ton, whichever is more restrictive.
- (10) Beryllium: 6.8×10^{-7} gr/dscf-12%, or 1.3×10^{-5} lb/ton, whichever is more restrictive.
- (11) Each of the emission limits in conditions (1) through (10) is to be expressed as a 3-hour average. This averaging time, which is applicable to the emission limits for all pollutants, is based on the expected length of time for a particulate compliance test. The concentration standards in conditions (2) through (10) are included as the primary compliance limit to facilitate simpler compliance testing, since the process weight, in tons per hour, is not easily measured. The concentration limit is intended to be equivalent to the lb/ton limit. The concentration limits were derived by dividing the lb/ton limits by the calculated volume of flue gas produced when one ton of refuse is combusted. If actual process conditions, i.e. dscf per ton of refuse fired, are different than projected by the applicant, EPA may, at its discretion, determine compliance based upon the lb/ton limits.
- (12) Mercury: 2200 grams/day
- (13) The potential for dust generation by ash handling activities will be mitigated by quenching the ash prior to loading in ash transport trucks. Additionally, all portions of the proposed facility including the ash handling facility which have the potential for fugitive emissions will be enclosed. Also those areas which have to be open for operational purposes, e.g., tipping floor of the refuse bunker while trucks are entering and leaving, will be under negative air pressure.
- (14) Each of the three units is subject to 40 CFR Part 60, Subpart E, New Source Performance Standards (NSPS), except that where requirements in this permit are more restrictive, the requirements in this permit shall apply.

b. Compliance Tests

- (1) Compliance tests for particulate matter, SO₂, nitrogen oxides, CO, VOC, sulfuric acid mist, fluorides, mercury and beryllium shall be conducted in accordance with 40 CFR 60.8 (a), (b), (d), (e), and (f), except that an annual test will be conducted for particulate matter. Compliance tests for opacity will be conducted simultaneously with compliance tests for particulate matter.

Compliance tests shall be conducted for such time and under such conditions as specified by EPA prior to the compliance test. These conditions will be specified by EPA upon notification of performance tests as required by General Condition 1. The permittee shall make available to EPA such records as may be necessary to determine the conditions of the performance tests.

- (2) The following test methods and procedures from 40 CFR Parts 60 and 61 shall be used for compliance testing:
 - a. Method 1 for selection of sample site and sample traverses
 - b. Method 2 for determining stack gas flow rate when converting concentrations to or from mass emission limits.
 - c. Method 3 for gas analysis when needed for calculation of molecular weight or percent CO₂.
 - d. Method 4 for determining moisture content when converting stack velocity to dry volumetric flow rate for use in converting concentrations in dry gases to or from mass emission limits.
 - e. Method 5 for concentration of particulate matter and associated moisture content. One sample shall constitute one test run.
 - f. Method 9 for visible determination of the opacity of emissions.
 - g. Method 6 for concentration of SO₂. Two samples, taken at approximately 30 minute intervals, shall constitute one test run.
 - h. Method 7 for concentration of nitrogen oxides. Four samples, taken at approximately 15 minute intervals, shall constitute one test run.
 - i. Method 8 for determination of sulfuric acid mist concentration and associated moisture content. One sample shall constitute one test run.
 - j. Method 10 (continuous) for determination of CO concentrations. One sample constitutes one test run.

- k. Method 12 for determination of lead concentration and associated moisture content. One sample constitutes one test run.
- l. Method 25 for determination of volatile organic compounds (VOC) concentration. One sample shall constitute one test run.
- m. Method 13A or 13B for determination of fluoride concentrations and associated moisture content. One sample shall constitute one test run.
- n. Method 101A for determination of mercury emission rate and associated moisture content. One sample shall constitute one test run.
- o. Method 104 for determination of beryllium emission rate and associated moisture content. One sample shall constitute one test run.

(3) The stack tests shall be performed at $\pm 10\%$ of the heat input rate of 150 million Btu per hour per boiler; however, compliance with the particulate matter emission limit shall be at design capacity.

2. The height of the boiler exhaust stack shall be less than 220 feet above ground level at the base of the stack.
3. The incinerator boilers shall not be loaded in excess of their rated capacity of 36,666 pounds per hour each.
4. The incinerator boilers shall have a metal name plate affixed in a conspicuous place on the shell showing manufacturer, model number, type waste, rated capacity and certification number.
5. The permittee must submit to EPA and DER within fifteen (15) days after it becomes available to the County, copies of technical data pertaining to the incinerator boiler design, to the electrostatic precipitator design, and to the fuel mix that can be used to evaluate compliance of the facility with the preceding emission limitations.
6. Grease, scum, grit screenings or sewage sludge shall not be charged into the solid waste to energy facility boilers.
7. Electrostatic Precipitator

The electrostatic precipitator shall be designed and constructed to limit particulate emissions to no more than 0.021 grains per dscf corrected to 12% CO₂.

8. Stack Monitoring Program

The permittee shall install and operate continuous monitoring devices for stack oxygen and opacity. The monitoring devices shall meet the applicable requirements of Rule 17-2.710, FAC, 40 CFR Part 60, Subparts A and D, Sections 60.13 and 60.45 respectively, except that emission rates shall be calculated in units consistent with emission limits in this permit. The conversion procedure shall be approved by EPA.

9. Reporting

- a. -A copy of the results of the stack tests shall be submitted within forty-five days of testing to the DER Southwest Florida District Office, the Hillsborough County Environmental Protection Commission (HCEPC) and EPA Region IV.
- b. Stack monitoring shall be reported to HCEPC, the DER Southwest District Office and EPA Region IV on a quarterly basis in accordance with Section 17-2.710, FAC, and 40 CFR, Part 60, Subsection 60.7.

10. Fuel

The Resource Recovery Facility shall utilize refuse such as garbage and trash (as defined in Chapter 17-7, FAC) but not sludge from sewage treatment plants as its fuel. Use of alternate fuels would necessitate application for a modification to this permit.

11. Addresses for submitting reports are:

a. EPA - Region IV

Chief, Air Compliance Branch
U.S. Environmental Protection Agency
345 Courtland St.
Atlanta, GA 30365

b. DER

Chief, Compliance and Ambient Monitoring
Bureau of Air Quality Management
Florida Department of Environmental Regulation
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32301

c. Southwest District Office of DER

District Manager
Department of Environmental Regulation
7601 Highway 301 N.
Tampa, FL 33610

d. HCEPC

Chief, Air Group
Hillsborough County Environmental
Protection Commission
1900 9th Ave.
Tampa, FL 33605

PART II

General Conditions

1. The permittee shall comply with the notification and record-keeping requirements codified at 40 CFR Part 60, Subpart A, § 60.7.
2. The permittee shall retain records of all information resulting from monitoring activities and information indicating operating parameters as specified in the specific conditions of this permit for a minimum of two (2) years from the date of recording.
3. If, for any reason, the permittee does not comply with or will not be able to comply with the emission limitations specified in this permit, the permittee shall provide EPA with the following information in writing within five (5) days of such conditions:
 - (a) description of noncomplying emission(s),
 - (b) cause of noncompliance,
 - (c) anticipated time the noncompliance is expected to continue or, if corrected, the duration of the period of noncompliance,
 - (d) steps taken by the permittee to reduce and eliminate the noncomplying emission, and
 - (e) steps taken by the permittee to prevent recurrence of the noncomplying emission.

Failure to provide the above information when appropriate shall constitute a violation of the terms and conditions of this permit. Submittal of the aforementioned information does not constitute a waiver of the emission limitations contained within this permit.

4. Any proposed change in the information submitted in the application regarding facility emissions or changes in the quantity or quality of materials processed that would result in new or increased emissions or ambient air quality impact must be reported to EPA. If appropriate, modifications to the permit may then be made by EPA to reflect any necessary changes in the permit conditions. In no case are any new or increased emissions allowed that will cause violation of the emission limitations specified herein. Any construction or operation of the source in material variance with the application shall be considered a violation of this permit.
5. In the event of any change in control or ownership of the source described in the permit, the permittee shall notify the succeeding owner of the existence of this permit and EPA of the change in control of ownership within 30 days.

OGDEN MARTIN SYSTEMS, INC.
140 EAST RIDGEWOOD AVENUE
PARAMUS, N. J. 07652

RICHARD W. SEELINGER
EXECUTIVE VICE PRESIDENT
(201) 599-2400

February 3, 1986

David S. Dee, Esquire
Carlton, Fields, Ward, Emmanuel, Smith & Cutler, P.A.
Lewis State Bank Building
215 S. Monroe - Suite 410
Tallahassee, FL 32302

RE: Lead Emissions of Hillsborough Resource Recovery Facility

Dear David:

After speaking to you on the phone January 31, 1986, I feel Susan Smith might have misunderstood the emission test data on lead that was supplied by Ogden to you. Although it is true that the average lead emission is 1.9 percent of the total controlled particulates, the data varied from a range of 0.05 percent to over 6.2 percent. This indicates that lead is quite a variable constituent in the waste stream of municipal solid waste. Also, it is clear from the data that the higher lead percentages are not necessarily a function of the age of the facility. A high percentage is emitted at the newer Westchester and Saugus facility as opposed to relatively low percentages at some older facilities. The only conclusion one can reach is that lead emissions vary significantly and primarily are a function of lead in the waste stream of the solid waste. An average emission limit for the Hillsborough facility is likely to be exceeded part of the time. The more reasonable lead emission limit would be the higher percentage (i.e. 6.2 percent) of the total controlled particulate.

I have attached a table which shows lead emission levels of other facilities that are being permitted by different state regulatory agencies. The levels vary from 3 percent to 10 percent of the controlled particulate matter. These numbers provide a reference point for your consideration.

It is still Ogden's position that a lead emission limit should not be assigned since we can only control lead emissions by our particulate

RECEIVED FEB 04 1986

TO: David S. Dee, Esquire
DATE: February 3, 1986
Page 2

control device. The electrostatic precipitator for the Hillsborough facility has been determined as the Best Available Control Technology. Therefore, an additional limitation of lead should not be required.

I hope this clarifies Ogden's position in regard to setting an emission cap on lead. Thank you for your time.

Very truly yours,



Richard W. Seelinger
Executive Vice President

RWS:jc
Attach.

cc: G. K. Crane
J. T. Sweeney

LEAD EMISSIONS LEVELS THAT ARE BEING PERMITTED

<u>Permitted Facility</u>	<u>Weight % of Total Particulate</u>
Bergen Facility	.05
Essex Facility	.03
Brooklyn Navy Yard Facility	.09
Babylon Facility	.08
Oyster Bay Facility	.07
Indianapolis Facility	.10
Marion County Facility	.03

CARLTON, FIELDS, WARD, EMMANUEL, SMITH & CUTLER, P. A.

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DER

FEB 3 1986

BAQM

January 31, 1986

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VIA FEDERAL EXPRESS

Ms. Susan Smith
Department of Justice
Environmental Defense Section
12 & Pennsylvania Avenue, N.W.
Washington, D.C. 20026-3986

RE: Hillsborough County Resource Recovery Facility

Dear Susan:

I am sending you this letter to follow up on our telephone conversation this morning.

As you know, I received EPA's Preliminary Determination and Draft Permit concerning the Hillsborough County resource recovery facility. Since you did not receive the Preliminary Determination, a copy is attached to this letter for your review.

The Preliminary Determination refers to seven tables, but the tables have not been prepared by EPA. However, Ed Svec at the Florida Department of Environmental Regulation tried to decipher Roger Pfaff's notes and describe the tables for me. It appears that Tables V-1, V-2, V-3, V-4 and V-5 are identical to Tables II-1 through II-5 in the DER Staff Analysis for

Ms. Susan Smith
January 31, 1986
Page Two

Hillsborough County's application for site certification. I have renumbered those tables to be consistent with the Preliminary Determination and attached them to this letter.

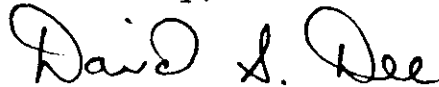
The Preliminary Determination also refers to Table V-6 and Table II-1, which are similar to Table II-6 and I-1, respectively, in the DER Staff Analysis. I also revised these tables to be consistent with Pfaff's notes and attached them to this letter.

Please contact Pfaff and determine whether the revised tables are consistent with his intentions. Also please send me a copy of the notice that you want published by Hillsborough County.

We are trying to obtain additional information for you concerning lead emissions. We hope to give you our comments concerning the Preliminary Determination and Draft Permit by telephone on Monday.

Please call me if you have any questions.

Sincerely,



David S. Dee

DSD/mm

cc: Roger Pfaff (FED EX)
Ed Svec
Jewell Harper (FED EX)

CARLTON, FIELDS, WARD, EMMANUEL, SMITH & CUTLER, P. A.

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PLEASE REPLY TO:

January 3, 1986

VIA FEDERAL EXPRESS

Ms. Susan Smith
United States Department
of Justice
Environmental Defense Section
1200 Pennsylvania Avenue
Room #4448
New Post Office Building
Washington, D.C. 20530

Re: Hillsborough County Resource Recover Facility

Dear Ms. Smith:

We are sending you this letter in response to the attached telegram we received from EPA on January 2, 1986. This letter confirms the information we gave you during our telephone conversations on January 2 and 3, 1986. Due to the pending litigation with EPA, we believe that it is appropriate for us to direct our response to you.

We continue to be extremely frustrated in our efforts to cooperate with EPA. We continue to get mixed signals and directions from EPA as to how it wants to proceed. For example, on December 9, 1985, we met with EPA representatives in Atlanta to discuss the November 27, 1985 EPA Administrative Order to Hillsborough County. At that time, the EPA technical staff advised us that they wanted Hillsborough County to submit a completely new PSD permit application, including entirely new computer modeling of all potential air quality impacts. We were very concerned about this proposal because it would take a considerable amount of time to prepare a new PSD permit application and it could cost \$50,000 or more. In fact, since EPA's Administrative Order gave Hillsborough County only ten days to file a PSD application, it was virtually impossible to file such an application pursuant to the EPA staff's directions. This was a primary consideration in the initiation of the Eleventh Circuit appeal.

DER

JAN 10 1986

BAQM

Ms. Susan Smith
January 3, 1986
Page 2

On December 18, we learned through the Florida Department of Environmental Regulation that Jack Ravan, the EPA Regional Administrator, had concluded that Hillsborough County only needed to submit its August 1984 PSD permit application to EPA. According to Ravan, no additional data were required. Obviously, this was a significant change from the EPA staff position on December 9.

Ravan's comments prompted us to immediately contact Jewel Harper, an attorney at EPA, and Mike Steinburg at the U.S. Department of Justice. We wanted to determine whether Ravan's statements were correct. On December 18, we requested an opportunity to meet with Harper, Steinburg and the appropriate EPA representatives to discuss these issues. Among other things, we wanted to know precisely what information EPA wanted from Hillsborough County. We were advised that a meeting would be scheduled as soon as possible.

Instead, we received EPA's telegram and its demand that we respond within 48 hours. We never received any confirmation, either way, about Ravan's comments or our request for a meeting.

We have repeatedly advised EPA that we would like to work with the agency. It is unnecessary to send ultimatums. If EPA would tell us specifically what additional information it wants, it is very probable that Hillsborough County will agree to promptly provide that information. We have repeatedly advised EPA that Hillsborough County would submit a "minor source" analysis, if that were all that EPA wanted. Without waiving its rights in the pending appeal, Hillsborough County would be happy to provide additional information to EPA, but it is unwilling to spend \$50,000 to prepare an entirely new PSD permit application.

We believe that Hillsborough County's August, 1984 PSD permit application was complete and sufficient. Hillsborough County completed a standard DER PSD permit application form and supplied all of the necessary information to DER. The application was evaluated in compliance with the Florida Electrical Power Plant Siting Act and 40 C.F.R. 52.21. We further believe that Hillsborough County does not need another PSD permit.

Nonetheless, to comply with EPA's Administrative Order, we asked DER to send Hillsborough County's 1984 PSD permit application to EPA for EPA review. DER had previously processed the application and, therefore, it was unnecessary to ask DER to

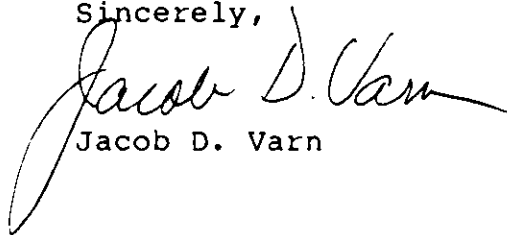
Ms. Susan Smith
January 3, 1986
Page 3

again review Hillsborough County's PSD permit application. The DER staff has advised us, however, that DER is currently preparing a new technical evaluation of the 1984 PSD permit application pursuant to 40 C.F.R. 52.21. We have encouraged DER to promptly complete its technical review for EPA.

We believe Hillsborough County has satisfied EPA's requests. We, in turn, request EPA to promptly prepare a "completeness" review of the August 1984 PSD application so that we will know what additional information EPA wants from Hillsborough County.

We believe EPA and Hillsborough County are very close to reaching an amiable settlement of this matter. We would sincerely appreciate your assistance in reaching that goal. We respectfully suggest that we should meet with you and the appropriate EPA representatives to informally resolve any remaining questions about this matter.

Sincerely,

A handwritten signature in cursive script that reads "Jacob D. Varn". The signature is written in black ink and is positioned above the printed name.

Jacob D. Varn

JDV/dt

cc: Jewel Harper

bcc: Ms. Clair Fancy

DER

DEC 21 1985

HOPPING BOYD GREEN & SAMS

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CAROLYN S. RAEPPLE
OF COUNSEL
W. ROBERT FOXES

December 20, 1985

RECEIVED
DEC 23 1985
Office of the Secretary

BY HAND DELIVERY

Alfred B. Devereaux
Assistant Secretary
Florida Department of Environmental
Regulation
2600 Blair Stone Road
Tallahassee, Florida 32301

Re: Power Plant Siting Act/PSD Permitting Delegation

Dear Mr. Devereaux:

Thank you for your letter of November 27, 1985, on the referenced subject. We are aware of the recent developments concerning delegation of the federal Prevention of Significant Deterioration (PSD) permit authority precipitated by the narrow view of the Florida Power Plant Siting Act (PPSA) taken by the U. S. Environmental Protection Agency's Region IV office. We recognize that the Department attempted to convince Region IV of the flaws in its analysis of this issue, and we regret that EPA has been unwilling to accept the position advanced by the Department. Both the Florida Electric Power Coordinating Group (FCG) and I very much appreciate your invitation to work with the Department to achieve a reasonable resolution of this matter.

At the outset, let me confirm your assumption that the FCG is seriously concerned about EPA's actions and is very interested in having full PSD permitting authority returned to the State for plants subject to PPSA certification. At present, however, we are not convinced that amendment of the PPSA is necessarily the only option available for accomplishing that goal. Bearing in mind the "deficiencies" alleged by EPA in connection with the PPSA, it is not clear to us why EPA's legitimate concerns could not be fully addressed administratively and through explicit treatment in a PSD delegation agreement between Florida and Region IV.

The approach outlined below would provide an administrative solution consistent with past practice in regard to revisions of the State Implementation Plan (SIP). It would

Alfred B. Devereaux
December 20, 1985
Page 2

thus preclude any need for amendment of the PPSA solely in order to remedy "deficiencies" perceived by an agency of the federal government. We believe an administrative solution, which avoids the time and resource expenditures, as well as the uncertainty, associated with any legislative effort, would best serve the interests of State government and regulated industry.

Suggested Administrative Solution

EPA's concerns about the PPSA apparently arise primarily as a result of the discretion accorded to the Governor and Cabinet (sitting as the Siting Board) to grant variances from otherwise applicable standards of the Department in issuing site certifications. It is true that, under the relevant PPSA provision (§403.511(2)), a variance from some requirement of the Department's PSD permitting rules could theoretically be granted in a PPSA certification proceeding. In fact, no such variance has ever been granted, however.

In the event a PSD variance were to be sought in some future PPSA proceeding, the applicant would be required to

"notify all parties and the hearing officer at least 120 days prior to the certification hearing of the standards or regulations it seeks a variance from, the reasons for such variance, the notice given to the agency whose rules are involved, and the condition which it seeks to have included in the certification on this issue." See Florida Administrative Code Rule 17-17.141(2)(3).

We are not sure that EPA is aware of this important provision of the Department's PPSA rules, which ensures that any variance request will be fully noticed long before the final certification hearing.

One aspect of our proposed administrative solution would be to specify that the notice required under Florida Administrative Code Rule 17-17.141(2)(3) must be provided to appropriate Region IV personnel in the case of a request for variance from any PSD requirements. We would also propose that, in the event a variance were granted from PSD requirements in a site certification, the relevant portions of the

Alfred B. Devereaux
December 20, 1985
Page 3

certification document would be submitted to EPA for review as a revision of the SIP. In such a case, the certification document would not constitute authorization to commence construction under federal law unless and until EPA acted to approve the variance. If EPA disapproved the variance, the applicant would have to obtain a modification to make the site certification acceptable to EPA before commencing construction.

The approach we have suggested is, in fact, consistent with the treatment of variances granted by the Department pursuant to Section 403.201, Florida Statutes, under the current SIP. It is well established that a Section 403.201 variance from air quality rules of the Department that are part of the SIP is treated by EPA as a revision of the SIP. A number of variances of this type have been granted by the Department and submitted to EPA for approval as SIP revisions.

It is impossible to reconcile EPA's acceptance of and participation in this variance/SIP revision process with rejection of a similar approach under the PPSA. The Department's authority to grant variances from its PSD rules (among others) under Section 403.201, Florida Statutes, has not been considered to be a "deficiency" by EPA. The contention that the analogous discretion afforded to the Siting Board under the PPSA is a deficiency fatal to delegation of PSD permitting to the State is completely at odds with Region IV's position on Section 403.201 variances.

To implement the approach we have suggested, it will likely be necessary to submit the PPSA and the Department's rules thereunder to EPA as additions to the SIP. This would presumably address EPA's concerns about the "federal enforceability" of PPSA site certifications issued in lieu of PSD permits. Inclusion of these provisions of State law in the SIP would be consistent with the previous inclusion of various portions of Chapter 403, Florida Statutes (including Section 403.201) in the currently-approved SIP. Implementation of this administrative approach would also entail agreement on procedures to be followed if a variance from PSD requirements were granted by the Siting Board. This could probably be handled through some sort of delegation agreement.

Alfred B. Devereaux
December 20, 1985
Page 4

We fully recognize that EPA has been unreceptive to the Department's past attempts to resolve this issue without statutory amendment. Nevertheless, we believe it would be worth another try. Should EPA be unwilling to accept a reasonable proposal along the lines of the approach outlined above, the FCG would be willing to explore possible legislative solutions and to work with the Department toward that end. We have reviewed the draft PPSA amendments prepared by Gary Early of the Department's Office of General Counsel. Our preliminary conclusion is that, while the draft amendments may provide a good starting point for discussion, preparation of a final draft for consideration by the legislature would require considerable refinement and clarification.

We would be interested in meeting with you and your staff to discuss both administrative and legislative approaches to the issues raised by EPA. With the holiday season so near, I would suggest that we try to schedule a meeting in early January. Please let me know if you believe a meeting would be worthwhile, and do not hesitate to call me or Peter Cunningham if you have any questions on our suggestions.

Your consideration in giving us the opportunity to work with the Department in this matter is much appreciated.

Sincerely,



Wade L. Hopping

WLH/gb

cc: E. Gary Early, Esquire
FCG Environmental Committee

November 27, 1985

Wade L. Hopping, Esquire
HOPPING, BOYD, GREEN & SAMS
Suite 420
Lewis State Bank Building
Post Office Box 6526
Tallahassee, Florida 32314

Dear Mr. Hopping:

The U.S. Environmental Protection Agency recently withdrew its delegation to the Department for the issuance of state power plant siting certifications. As a result of that action, I have asked the EPA for partial delegation of power plant PSD review, which will allow the Department to continue technical review of PSD permits. Although the actual PSD certification will now be issued by the EPA, the department will continue to make determinations of BACT, LAER, etc.

The EPA's justification for withdrawal of the Department's power plant PSD licensing was based on several factors. The main concern is the perception that, under the Power Plant Siting Act, the Governor and Cabinet have unbridled discretion in granting certification variances which may be inconsistent with provisions of the Clean Air Act and the State Implementation Plan. While you and I both can agree that was not the intent of the Power Plant Siting Act, and is not the way it has operated in practice, the Department has been unable to convince the EPA of that. A member of your firm, Peter Cunningham, has been in touch with the Department's air attorney, E. Gary Early, and has much of the correspondence and documentation which has been exchanged between the Department and EPA.

Gary Early

Mr. Wade L. Hopping
November 27, 1985
Page Two

I am writing you because you represent the Florida Coordinating Group which is comprised of many of the interests most directly affected by the action of the EPA, and to ask your help with making the necessary statutory changes which will satisfy EPA and allow the Department to resume the licensing of power plants. I am sure your clients are not anxious to discard the single step permitting afforded by the Power Plant Siting Act in favor of dual state and federal permitting of power plants. Therefore, I hope you will be willing to provide support in amending the act to address the concerns of the EPA. Peter Cunningham has a rough draft of some statutory changes prepared by Gary Early which you may wish to consider. I hope that with your help on resolving the defects in the Power Plant Siting Act, the department will again receive the full delegation from the EPA.

Please call me if you have questions about the EPA actions or amendment of the Act.

Sincerely,

/s/ ABD

Alfred B. Devereaux
Assistant Secretary

ABD/ps

CARLTON, FIELDS, WARD, EMMANUEL, SMITH & CUTLER, P. A.

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ROBERT L. YOUNG
GEORGE ZADOROZNY
PETER W. ZINOBER

December 13, 1985

Hand Delivery

Mr. Steve Smallwood
Bureau Chief, Bureau of
Air Quality Management
Florida Department of
Environmental Regulation
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, FL 32301

RE: Hillsborough County Resource Recovery Facility
Hillsborough County, Florida

Dear Steve:

On December 5, 1985, Hillsborough County received an Administrative Order from the United States Environmental Protection Agency (EPA) which instructed Hillsborough County to stop construction of its resource recovery facility or apply to the Florida Department of Environmental Regulation (DER) for a Prevention of Significant Deterioration (PSD) permit within ten (10) days.

As you know, Hillsborough County filed an application with DER for a PSD permit on August 2, 1984. The County submitted its application on DER form 17-1.202(1), together with its

DER

DEC 13 1985

BAQM

Mr. Steve Smallwood
December 13, 1985
Page Two

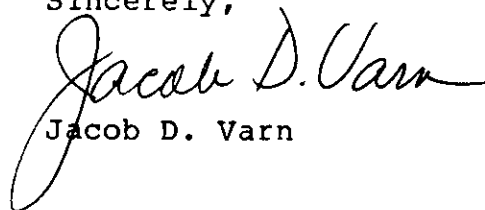
application for site certification pursuant to the Florida Electrical Power Plant Siting Act (PPSA). On August 16, 1984, DER notified the County that the PPSA and PSD applications were complete. DER subsequently issued a written report concerning the proposed PPSA and PSD applications. The DER report contained a thorough analysis of all relevant PSD permitting issues, including BACT and proposed PSD permit conditions. It is our understanding that the information submitted to DER, the analysis performed by DER, and the permit conditions imposed by DER, were all in compliance with the applicable air quality regulations in effect at the time Hillsborough County's permit application was pending. For this reason, we recently filed a petition for judicial review of EPA's Administrative Order.

We make this request to DER under protest. While we are making this request, we expressly reserve all of our rights to contest EPA's Administrative Order and any similar actions in the future.

We are of the opinion that Hillsborough County holds a valid and federally enforceable PSD permit. Further, we are of the opinion that DER's prior technical analysis, BACT determination and recommendations were appropriate. In view of EPA's current position, we respectfully request that DER promptly forward to EPA the following: (1) DER's prior technical analysis; (2) DER's prior BACT determination; and (3) the State's PSD permit. With this information, EPA will then be able to ministerially incorporate the State's terms and conditions into whatever form EPA considers appropriate for a valid federal PSD permit.

Your assistance in forwarding these materials promptly will be greatly appreciated.

Sincerely,



Jacob D. Varn

JDV/mm

cc: Victoria J. Tschinkel
Mary Smallwood

Mr. Steve Smallwood
December 13, 1985
Page Three

CERTIFICATE OF SERVICE

I hereby certify that a copy of this letter was hand-delivered to Steve Smallwood, Bureau Chief, Bureau of Air Quality Management, Florida Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, FL 32301 this 13th day of December, 1985.



JACOB D. VARN

DER

DEC 13 1985

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

345 COURTLAND STREET
ATLANTA, GEORGIA 30365

DER

DEC 18 1985

BAQM

DEC 13 1985

RECEIVED DEC -16 1985

REF: 4APT-AP/ch

Mr. David S. Dee
Carlton, Fields, Ward,
Emmanuel, Smith, & Cutler, P.A.
Attorneys at Law
Lewis State Bank Building
P. O. Drawer 190
Tallahassee, FL 32302

Dear Mr. Dee:

This is to confirm our conversation of December 11, 1985, concerning processing of a new PSD permit application for the Hillsborough County Resource Recovery Facility.

According to EPA's Office of General Counsel, Region IV may consider BACT for the facility to be that technology which represented BACT at the time at which Hillsborough County submitted a complete application to the Florida DER for a permit under the Power Plant Siting Act. That date is August 16, 1984. Therefore, EPA Region IV intends to evaluate BACT for the facility on the basis of the best technology available as of that date. In so doing, we will give considerable weight to the determination made by DER for the Power Plant Siting Act permit.

Sincerely yours,

Bruce P. Miller

Bruce P. Miller
Acting Chief
Air Programs Branch
Air, Pesticides, & Toxics
Management Division

NOV 27 1985

4APT-AC

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ms. Mary L. Cummings, Director
Hillsborough County Department
of Solid Waste
Post Office Box 1110
Tampa, Florida 33601

Dear Ms. Cummings:

As you may be aware the United States Environmental Protection Agency (EPA) notified the Florida Department of Environmental Regulation by a letter dated September 16, 1985, that the Florida Electrical Power Plant Siting Act (PPSA) is not part of the Florida State Implementation Plan. Consequently, the certification obtained for the Hillsborough County resource recovery facility pursuant to the PPSA is not equivalent to a Prevention of Significant Deterioration (PSD) permit. Therefore, as was discussed with you during the October 25, 1985, meeting between EPA and the Hillsborough County Department of Solid Waste, the Hillsborough County resource recovery facility is being constructed without a valid, federally enforceable PSD permit.

Accordingly, pursuant to Section 167 of the Clean Air Act, 42 U.S.C. 87477, the Hillsborough County Department of Solid Waste is hereby required to comply with the terms specified in the enclosed Administrative Order.

Should you have any further questions, please feel free to call me at (404) 881-4727 or Winston A. Smith, Director, Air, Pesticides, and Toxics Management Division, at (404) 881-3043.

Sincerely yours,

Original Signed BY:

Jack E. Ravan
Regional Administrator

Enclosure

cc: Steve Smallwood, P.E., Chief ✓
Bureau of Air Quality Management
Florida Department of Environmental
Regulation

Roger P. Stewart, Director
Hillsborough County Environmental
Protection Commission

DER

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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Rob Van Deman, Director
Pinellas County Department
of Solid Waste Management
2800 110th Avenue North
St. Petersburg, Florida 33702

Dear Mr. Van Deman:

As you may be aware the United States Environmental Protection Agency (EPA) notified the Florida Department of Environmental Regulation by a letter dated September 16, 1985, that the Florida Electrical Power Plant Siting Act (PPSA) is not part of the Florida State Implementation Plan. Consequently, the certification obtained for the Pinellas County resource recovery addition pursuant to the PPSA is not equivalent to a Prevention of Significant Deterioration (PSD) permit. Therefore, as was discussed with you during the October 31, 1985, meeting between EPA and the Pinellas County Department of Solid Waste Management, the Pinellas County resource recovery addition is being constructed without a valid, federally enforceable PSD permit.

Accordingly, pursuant to Section 167 of the Clean Air Act, 42 U.S.C. §7477, the Pinellas County Department of Solid Waste Management is hereby required to comply with the terms specified in the enclosed Administrative Order.

Should you have any further questions, please feel free to call me at (404) 881-4727 or Winston A. Smith, Director, Air, Pesticides, and Toxics Management Division, at (404) 881-3043.

Sincerely yours,

/s/ Jack E. Ravan
Regional Administrator

Jack E. Ravan
Regional Administrator

Enclosure

cc: Steve Smallwood, P.E., Chief
Bureau of Air Quality Management
Florida Department of Environmental
Regulation ✓

William Davis, Director
Pinellas County Department of
Environmental Management

DER

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3. On August 2, 1984, the County applied to the Florida Department of Environmental Regulation (DER) for certification to construct and operate an air emission source at its Falkland Road facility in Tampa, Florida, pursuant to the Florida Electrical Power Plant Siting Act (Siting Act). (Florida Public Health Code §§403.501-403.519)

4. On December 20, 1984, the Governor and the Siting Board of Florida issued a certification to the County for the construction and operation of the air emission source under the Siting Act.

5. On July 21, 1985, EPA, Region IV, Air, Pesticides, and Toxics Management Division staff and Hillsborough County Environmental Protection Commission staff conducted an overview inspection of the Hillsborough County resource recovery facility and documented the initiation of construction of a 1600 tons per day resource recovery facility.

6. By letter dated September 16, 1985, the EPA, Region IV, Air, Pesticides, and Toxics Management Division Director notified the Florida DER Bureau of Air Quality Management Chief that certifications issued pursuant to the Siting Act are not equivalent to PSD permits and that the Hillsborough County resource recovery facility was being constructed without a valid, federally enforceable PSD permit.

CONCLUSIONS OF LAW:

1. The Administrator of EPA, pursuant to his authority under Section 109 of the Act, 42 U.S.C. §7409, promulgated National Primary and Secondary Ambient Air Quality Standards for certain criteria pollutants, including sulfur oxides (sulfur dioxide), nitrogen oxides, carbon monoxide and lead. (40 C.F.R. §§50.4 - 50.12)

2. Pursuant to Section 110 of the Act, 42 U.S.C. §7410, the Administrator of EPA in 45 Fed. Reg. 56276 (August 7, 1980) promulgated amended regulations for the Prevention of Significant Deterioration of Air Quality (PSD) in areas where the existing air quality is better than the said ambient standards and incorporated said regulations into the various implementation plans of each state. The relevant regulations are codified at 40 C.F.R. §52.21.

3. The Florida State Implementation Plan (SIP) contains federally approved PSD regulations, based on the above-referenced PSD regulations, for such attainment or "clean air" areas. (Florida Administrative Code §17-2.500)

4. The area of construction of the new resource recovery facility is located in an attainment area for the National Ambient Air Quality Standards for all pollutants except ozone and particulate matter. (40 C.F.R. §81.310)

5. The Hillsborough County Department of Solid Waste is the owner of the major emitting resource recovery facility in Hillsborough County, Florida, and has been constructing a new air emission source without first obtaining the valid, federally enforceable PSD permit, since approximately January 8, 1985, which is a violation of Section 165 of the Act, 42 U.S.C. §7475 and, as such, subject to federal enforcement action pursuant to 40 C.F.R. §52.21(i)(1) and (3) and §52.21(r)(1).

6. The construction of the new facility violates Section 165(a) of the Act, 42 U.S.C. §7475 and 40 C.F.R. §52.21, and requires the issuance of this Order pursuant to Section 167 of the Act, 42 U.S.C. §7477. (See also 40 C.F.R. §52.21(r)(1))

7. The authority of the Administrator of EPA pursuant to §113(a) of the Act 42 U.S.C. §7413(a), to make findings of violation of the Florida SIP, to issue notices of violation and to confer with the alleged violator has been delegated, first, to the Regional Administrators [earlier delegation consolidated to Delegations Manual, No. 7-6 (July 25, 1984)] and second, to the Director, Air, Pesticides, and Toxics Management Division, Region IV, [earlier delegation consolidated in Region IV Delegations Manual, No. 4-2 (March 15, 1985)].

8. The authority of the Administrator of EPA to issue orders pursuant to Section 167 of the Act, 42 U.S.C. §7477 was delegated to the Regional Administrators [earlier delegations consolidated to Delegations Manual, No. 7-38 (July 25, 1984)]. The Regional Administrator, Region IV, has also consulted with the Associate Enforcement Counsel for Air and the Director of the Stationary Source Compliance Division pursuant to the delegation requirement.

ORDER

Consequently, based upon investigation and analysis of all relevant facts, including the seriousness of the violations and any good faith efforts to comply, and pursuant to Section 167 of the Act, 42 U.S.C. §7477, Hillsborough County Department of Solid Waste is hereby ORDERED:

1. to cease all on-site construction activity of a permanent nature within ten (10) days from the date of receipt of this order, or
2. to apply to the Florida Department of Environmental Regulation for a Prevention of Significant Deterioration permit within ten (10) days from the date of receipt of this order and

3. to certify within fifteen (15) days from the date of receipt of this order that the requirement of either Paragraph 1 or Paragraph 2 immediately hereinabove has been met to:

Winston A. Smith, Director
Air, Pesticides & Toxics Management Division
U.S. Environmental Protection Agency
345 Courtland Street, N.E.
Atlanta, Georgia 30365

/s/ Jack E. Ravan
Regional Administrator

Dated NOV 27 1985

Jack E. Ravan
Regional Administrator
Region IV
United States Environmental
Protection Agency

PALLAS	PFaffen	DUBOSE	HARPER	BOILEN	SARGENT	WILBURN	SMITH	KAVAN
<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	<i>[Signature]</i>	
11/14	11/14	11/14	11/22	11/22	11/25	11/25	11/26/85	