

THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

In the Matter of an
Application for Air Construction Permit by:

Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane, Suite 440
Atlanta, Georgia 30092

Tallahassee Renewable Energy Center
Air Permit No. 0730109-001-AC
Leon County, Florida

DEPT OF ENVIRONMENTAL
PROTECTION

NOV 07 2008

REQUEST FOR EXTENSION OF TIME

OFFICE OF
GENERAL COUNSEL

By and through undersigned counsel, Biomass Gas and Electric of Tallahassee, LLC (BG&E) hereby requests, pursuant to Florida Administrative Code Rule 62-110.106(4), an extension of time to and including November 18, 2008, in which to file a Petition for Administrative Proceedings in the above-styled matter. As good cause for granting this request, BG&E states the following:

1. On or about October 27, 2008, BG&E received from the Department of Environmental Protection (Department) a Technical Evaluation and Preliminary Determination, a Proposed Draft Permit, and a Written Notice of Intent to Issue Air Permit (Permit No. 0730109-001-AC) for the Tallahassee Renewable Energy Center located in Leon County, Florida.
2. The Proposed Draft Permit and Technical Evaluation and Preliminary Determination contain several provisions that warrant clarification or correction.
3. Representatives of BG&E will correspond with staff of the Department's Bureau of Air Regulation in an effort to resolve all issues.
4. This request is filed simply as a protective measure to avoid waiver of BG&E's right to challenge certain conditions contained in the Proposed Draft Permit and Technical Evaluation and Preliminary Determination. Grant of this request will not prejudice either party, but

will further their mutual interest and likely avoid the need to file a petition and proceed to a formal administrative hearing.

5. Counsel for BG&E contacted Ronni Moore with the Department's Office of General Counsel regarding this request.

WHEREFORE, BG&E respectfully requests that the time for filing a Petition for Administrative Proceedings with regard to the above-referenced Technical Evaluation and Preliminary Determination, Proposed Draft Permit, and Written Notice of Intent to Issue Air Permit (Permit No. 0730109-001-AC) be formally extended to and including November 18, 2008. If the Department denies this request, BG&E requests the opportunity to file a Petition for Administrative Proceedings within 10 days of such denial.

Respectfully submitted this 7th day of November, 2008.

HOPPING GREEN & SAMS, P.A.



Angela Morrison Ukland
Fla. Bar No. 0855766
123 South Calhoun Street
Post Office Box 6526
Tallahassee, FL 32314
(850) 222-7500

Attorney for BIOMASS GAS AND ELECTRIC
Of TALLAHASSEE, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to the following by
U.S. Mail on this 7th day of November, 2008:

Ronni Moore
Office of General Counsel
Department of Environmental Protection
3900 Commonwealth Blvd.
Tallahassee, FL 32399-2600

Trina Vielhauer, Chief
Bureau of Air Regulation
Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400



Attorney

289361

DEPT OF ENVIRONMENTAL
PROTECTION

NOV 10 2008

OFFICE OF
GENERAL COUNSEL

**BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION**

John Gibby
4887 Gum Road
Tallahassee, FL
32304

Petitioner

Case No.
FDEP File No. 0730109-0001-AC

v.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Respondent

**PETITION FOR ADMINISTRATIVE HEARING
PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES**

Petitioner, John Gibby, hereby petitions for an administrative hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, challenging Respondent, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S ("FDEP"), approval of Biomass Gas & Electric of Tallahassee, LLC's ("BG&E") application for an air pollution construction permit which authorizes the construction of a nominal 42 megawatts biomass-fed integrated gasification and combined cycle power plant called the Tallahassee Renewable Energy Center. In support thereof, CONCERNED CITIZEN states as follows:

The Parties and Notice of Agency Action

(a). The name and address of the affected agency is the FDEP, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000. The telephone number of the Agency is (850) 245-2118.

(b). The name, address, and telephone number of the petitioner:

John Gibby
4887 Gum Road
Tallahassee, FL
32304

The telephone number is (850) 576-2062.

The name, address, and telephone number of the petitioner's representative, if any:

None at this time.

The address for service purposes during the course of the proceeding:

John Gibby
4887 Gum Road
Tallahassee, FL
32304

The petitioner's substantial interests are affected by the agency determination:

1. As acknowledged by BG&E, this plant will release pollutants including particle pollution, which can increase my risk as well as the risk to other residents of Tallahassee to developing heart disease, stroke, brain inflammation, lung disease and increase risk of developing cancer. The more air pollution, the more medications I may have to pay for and the sicker I and others could become. I have a right to breathe clean air and to drink clean water. Glenn Farris's previous involvement with the McNeil Generating system in Burlington, Vermont indicates a history of poisonous emissions.

By approval of the air construction permit, BG&E's permitted facility will emit air pollutants that will have an immediate and real impact on the Petitioner's substantial interest.

2. For a party to have standing to challenge proposed agency action pursuant to Sections 120.569 and 120.57(1), Florida Statutes, the party must demonstrate its substantial interest are determined or affected by the proposed agency action. This requirement is met when a party demonstrates that, as a result of the agency action, it will suffer an injury in fact, of sufficient immediacy to entitle it to an administrative proceeding on the action and the substantial injury that would result from the agency action is of the type or nature the administrative proceeding is designed to protect. [Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d. DCA 1981).]

3. As a resident of Leon County and working in the vicinity of the proposed facility site, the Petitioner's substantial interest is being determined in this proceeding. Further, the substantial injury that will result by the presence in the outdoor atmosphere of the state of any one or more substances or pollutants in quantities which are or may be harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation, §62.210.200(12), F.A.C., such injury that this administrative proceeding is designed to protect. Therefore, the Petitioner has standing to challenge FDEP's decision to approve BG&E's application for an air pollution construction permit.

(c). 1. FDEP issued a written notice of intent to issue draft air Construction Permit on October 27, 2008. The Petitioner received FDEP's written notice of intent to issue a Draft Air Construction Permit by electronic mail on or about October 28, 2008, pursuant to Florida Statute §120.60(3). By operation of law, this Petition is filed within a timely manner.

(d). A statement of all disputed issues of material fact

1. BG&E has not shown outside laboratory data, nor 3rd party independent verification of their emissions data nor any of the test data which they offer in support of their emission claims.

2. The Petitioner disputes the determination by FDEP that the applicant, BG&E, has shown that the installation is provided or equipped with pollution control facilities that will abate or prevent pollution to the degree that will comply with the standards or rules adopted by the department in accordance with Florida State Statute 403.087.

3. The applicant, BG&E failed to provide reasonable assurance that the operation of the proposed facility will not adversely impact air quality and failed to provide reasonable assurance that the project will not cause or contribute to a violation of a state or federal ambient air quality standard.

(e). A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action:

1. The applicant, BG&E, has not adequately demonstrated or proven that the proposed project will not adversely impact or exceed air quality standards set forth in Florida Statutes 403.087
2. BG&E has not demonstrated that they will not significantly pollute regional air quality as there is no successful biomass plant on which to model their claims
3. Reasonable assurance has not been demonstrated by the applicant, BG&E, in their Application and in the request for additional information.
4. Reasonable assurance has not been demonstrated by FDEP in the technical review due to technical errors.
5. The Proposed Draft Permit and Technical Evaluation and Preliminary Determination contain several provisions, information and data that warrant clarification.

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes:

The Petitioner contends that:

1. The 2008 Florida Statutes and
2. Current Air Rules

The Florida Administrative Code Chapters are: 62-4, 62-204, 62-210, 62-212, 62-213, 62-214, 62-242, 62-243, 62-252, 62-256, 62-257, 62-281, 62-296, and 62-297 may require reversal or modification of the agency's proposed action. The alleged facts relate to the specific rules or statutes.

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

The Petitioner requests the following action to be taken:

Rule 28-106.209, F.A.C. Pre-hearing Conferences

At any time after a matter has been filed with the agency, the presiding officer may direct the parties to confer for the purpose of clarifying and simplifying issues, discussing the possibilities of settlement, examining documents and other exhibits, exchanging names and addresses of witnesses, resolving other procedural matters, and entering into a prehearing stipulation.

This request is filed as a protective measure to insure petitioner's substantial interests are NOT affected by the agency determination.

It is the petitioner's desire to avoid the need for a formal administrative hearing.

Respectfully submitted this 10th day of November, 2008.

Concerned Citizen

 10/10/08

John Gibby
4887 Gum Road
Tallahassee, FL
32304

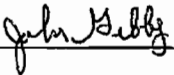
Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing has been furnished to the following by U.S. Mail on this 10th day of November, 2008:

Mr. Glenn Farris, President and CEO
Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane, Suite 440
Atlanta, Georgia 30092

Ronni Moore
Office of General Counsel
Department of Environmental Protection
3900 Commonwealth Blvd.
Tallahassee, FL 32399-2600

Trina Vielhauer, Chief
Bureau of Air Regulation
Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

 10/10/08

John Gibby
4887 Gum Road
Tallahassee, FL
32304

Elizabeth
AL

**BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION**

**In the Matter of an
Application for Air Construction Permit by:**

**Biomass Gas and Electric of Tallahassee, LLC Tallahassee Renewable Energy Center
3500 Parkway Lane , Suite 440 Air Permit No. 0730109-001-AC
Atlanta, Ga. 30092 Leon County, Florida**

PETITION FOR ADMINISTRATIVE HEARING

Petitioners, Anita and Morris Davis, hereby petition, pursuant to sections 120.569, and 120.57, Florida Statutes, the Florida Department of Environmental Protection ("FDEP") for an administrative hearing in which they might challenge the FDEP's Notice of Intent to Issue a Draft Air Construction Permit in this proceeding, and state:

1. The name and address of the agency affected by this petition is

 Florida Department of Environmental Protection
 3900 Commonwealth Boulevard, MS 35
 Tallahassee, Florida 32399-3000

2. The agency's file number is 0730109-001-AC

3. The address of petitioners is 708 Bragg Drive, Tallahassee, Florida 32305.

4. Petitioners received notice of this agency action when FDEP issued a Notice of Intent to Issue An Air Construction Permit via email on October 28, 2008.

5. Petitioners object to the determination by the agency that the applicant has provided reasonable assurance that this project will not adversely impact the community's air quality, and the project will comply with applicable legal standards.

6. The agency proposes to authorize operation of the first plant of this type to be established in this region of the country. With little actual operational experience for an operation such as this, the agency has unreasonably relied upon assertions by the applicant as to the operation of the

proposed plant. The agency has further granted waivers and exemptions for this plant without adequate justification, that increase the risk of harm to air quality. Petitioners are aware that the operation of a similar plant in another region of the country posed substantial concerns to air quality, as well as public health and safety.

7. If the proposed plant is allowed to operate, Petitioners live in close proximity to the site, and will experience the detrimental impact to air quality caused by the plant. In addition, Petitioners will experience extreme nuisances from the plant in the form of noise, odor and property intrusion.

8. Petitioners own a homestead in an area directly affected by the operation of the plant. As such, their substantial interests are directly affected if the agency authorizes the construction permit.

9. The interests of Petitioners are the type of interests this proceeding is designed to protect, *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), reh. denied, 415 So.2d 1359 (Fla. 1982).

10. Petitioners expressly dispute all facts and evidence put forth by the applicant purporting to establish that no adverse impact to the air quality will result from the operation of the proposed plant.

11. Petitioners assert that the application in this proceeding should be denied because it does not support a conclusion that the proposed plant will not be adverse to this community's air quality, as set provided in applicable law.

12. Petitioners therefore request that a formal hearing be scheduled to contest the evidence put forth by the applicant, and that at the conclusion of that hearing that the application for an air permit be denied.

Dated this 11-10-08 day of November, 2008.

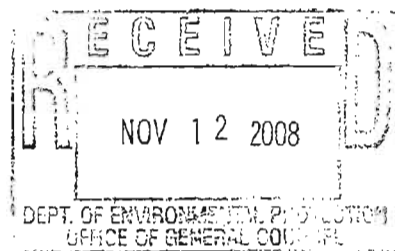
Anita L. Davis
Anita Davis

Morris Davis
Morris Davis

→ articles

→ meeting dates & w/ whom

BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



In the Matter of an
Application for Air Construction Permit by:

Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane , Suite 440
Atlanta, Ga. 30092

Tallahassee Renewable Energy Center
Air Permit No. 0730109-001-AC
Leon County, Florida

PETITION FOR ADMINISTRATIVE HEARING

Petitioners, Anita and Morris Davis, hereby petition, pursuant to sections 120.569, and 120.57, Florida Statutes, the Florida Department of Environmental Protection ("FDEP") for an administrative hearing in which they might challenge the FDEP's Notice of Intent to Issue a Draft Air Construction Permit in this proceeding, and state:

1. The name and address of the agency affected by this petition is
Florida Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, Florida 32399-3000
2. The agency's file number is 0730109-001-AC
3. The address of petitioners is 708 Bragg Drive, Tallahassee, Florida 32305.
4. Petitioners received notice of this agency action when FDEP issued a Notice of Intent to Issue An Air Construction Permit via email on October 28, 2008.
5. Petitioners object to the determination by the agency that the applicant has provided reasonable assurance that this project will not adversely impact the community's air quality, and the project will comply with applicable legal standards.
6. The agency proposes to authorize operation of the first plant of this type to be established in this region of the country. With little actual operational experience for an operation such as this, the agency has unreasonably relied upon assertions by the applicant as to the operation of the

proposed plant. The agency has further granted waivers and exemptions for this plant without adequate justification, that increase the risk of harm to air quality. Petitioners are aware that the operation of a similar plant in another region of the country posed substantial concerns to air quality, as well as public health and safety.

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8. Petitioner own a homestead in an area directly affected by the operation of the plant. As such, their substantial interests are directly affected if the agency authorizes the construction permit.

9. The interests of Petitioners are the type of interests this proceeding is designed to protect, *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), reh. denied, 415 So.2d 1359 (Fla. 1982).

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12. Petitioners therefore request that a formal hearing be scheduled to contest the evidence put forth by the applicant, and that at the conclusion of that hearing that the application for an air permit be denied.

Dated this 11-10-08 day of November, 2008.

Anita L Davis
Anita Davis

Morris
Morris Davis

Gibson, Victoria

From: Crandall, Lea
Sent: Wednesday, November 12, 2008 12:37 PM
To: Chisolm, Jack; Moore, Ronni; Brown, Lisa L.; Gibson, Victoria; Linero, Alvaro
Subject: Petition for Hearing - 0730109-001-AC - BG&E
Attachments: BG&E - Davis Petition - 08-2688.pdf

FYI, a Petition for Hearing from Anita & Morris Davis was filed today re: 0730109-001-AC - BG&E.

Thanks,
Lea

Lea Crandall
Agency Clerk
Office of General Counsel
3900 Commonwealth Boulevard, MS 35
Tallahassee, FL 32399-3000
Phone: (850) 245-2212
Fax: (850) 245-2303

FLORIDA DISCOUNT CARD: More than 3,000 retail pharmacies in Florida are now a part of the Florida Discount Drug Card program. See www.FloridaDiscountDrugCard.com for more info or call toll-free, 1-866-341-8894.

BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

DEPT OF ENVIRONMENTAL
PROTECTION

NOV 10 2008

OFFICE OF
GENERAL COUNSEL

John Gibby
4887 Gum Road
Tallahassee, FL
32304

Petitioner

Case No.
FDEP File No. 0730109-0001-AC

v.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Respondent

PETITION FOR ADMINISTRATIVE HEARING
PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES

Petitioner, John Gibby, hereby petitions for an administrative hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, challenging Respondent, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S ("FDEP"), approval of Biomass Gas & Electric of Tallahassee, LLC's ("BG&E") application for an air pollution construction permit which authorizes the construction of a nominal 42 megawatts biomass-fed integrated gasification and combined cycle power plant called the Tallahassee Renewable Energy Center. In support thereof, CONCERNED CITIZEN states as follows:

The Parties and Notice of Agency Action

(a). The name and address of the affected agency is the FDEP, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000. The telephone number of the Agency is (850) 245-2118.

(b). The name, address, and telephone number of the petitioner:

John Gibby
4887 Gum Road
Tallahassee, FL
32304
The telephone number is (850) 576-2062.

The name, address, and telephone number of the petitioner's representative, if any:

None at this time.

The address for service purposes during the course of the proceeding:

John Gibby
4887 Gum Road
Tallahassee, FL
32304

The petitioner's substantial interests are affected by the agency determination:

1. As acknowledged by BG&E, this plant will release pollutants including particle pollution, which can increase my risk as well as the risk to other residents of Tallahassee to developing heart disease, stroke, brain inflammation, lung disease and increase risk of developing cancer. The more air pollution, the more medications I may have to pay for and the sicker I and others could become. I have a right to breathe clean air and to drink clean water. Glenn Farris's previous involvement with the McNeil Generating system in Burlington, Vermont indicates a history of poisonous emissions.

By approval of the air construction permit, BG&E's permitted facility will emit air pollutants that will have an immediate and real impact on the Petitioner's substantial interest.

2. For a party to have standing to challenge proposed agency action pursuant to Sections 120.569 and 120.57(1), Florida Statutes, the party must demonstrate its substantial interest are determined or affected by the proposed agency action. This requirement is met when a party demonstrates that, as a result of the agency action, it will suffer an injury in fact, of sufficient immediacy to entitle it to an administrative proceeding on the action and the substantial injury that would result from the agency action is of the type or nature the administrative proceeding is designed to protect. [Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d. DCA 1981).]

3. As a resident of Leon County and working in the vicinity of the proposed facility site, the Petitioner's substantial interest is being determined in this proceeding. Further, the substantial injury that will result by the presence in the outdoor atmosphere of the state of any one or more substances or pollutants in quantities which are or may be harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation, §62.210.200(12), F.A.C., such injury that this administrative proceeding is designed to protect. Therefore, the Petitioner has standing to challenge FDEP's decision to approve BG&E's application for an air pollution construction permit.

(c). 1. FDEP issued a written notice of intent to issue draft air Construction Permit on October 27, 2008. The Petitioner received FDEP's written notice of intent to issue a Draft Air Construction Permit by electronic mail on or about October 28, 2008, pursuant to Florida Statute §120.60(3). By operation of law, this Petition is filed within a timely manner.

(d). A statement of all disputed issues of material fact

1. BG&E has not shown outside laboratory data, nor 3rd party independent verification of their emissions data nor any of the test data which they offer in support of their emission claims.
2. The Petitioner disputes the determination by FDEP that the applicant, BG&E, has shown that the installation is provided or equipped with pollution control facilities that will abate or prevent pollution to the degree that will comply with the standards or rules adopted by the department in accordance with Florida State Statute 403.087.
3. The applicant, BG&E failed to provide reasonable assurance that the operation of the proposed facility will not adversely impact air quality and failed to provide reasonable assurance that the project will not cause or contribute to a violation of a state or federal ambient air quality standard.

(e). A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action:

1. The applicant, BG&E, has not adequately demonstrated or proven that the proposed project will not adversely impact or exceed air quality standards set forth in Florida Statutes 403.087

2. BG&E has not demonstrated that they will not significantly pollute regional air quality as there is no successful biomass plant on which to model their claims

3. Reasonable assurance has not been demonstrated by the applicant, BG&E, in their Application and in the request for additional information.

4. Reasonable assurance has not been demonstrated by FDEP in the technical review due to technical errors.

5. The Proposed Draft Permit and Technical Evaluation and Preliminary Determination contain several provisions, information and data that warrant clarification.

(f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes:

The Petitioner contends that:

1. The 2008 Florida Statutes and
2. Current Air Rules

The Florida Administrative Code Chapters are: 62-4, 62-204, 62-210, 62-212, 62-213, 62-214, 62-242, 62-243, 62-252, 62-256, 62-257, 62-281, 62-296, and 62-297 may require reversal or modification of the agency's proposed action.

The alleged facts relate to the specific rules or statutes.

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.

The Petitioner requests the following action to be taken:

Rule 28-106.209, F.A.C. Pre-hearing Conferences

At any time after a matter has been filed with the agency, the presiding officer may direct the parties to confer for the purpose of clarifying and simplifying issues, discussing the possibilities of settlement, examining documents and other exhibits, exchanging names and addresses of witnesses, resolving other procedural matters, and entering into a prehearing stipulation.

This request is filed as a protective measure to insure petitioner's substantial interests are NOT affected by the agency determination.

It is the petitioner's desire to avoid the need for a formal administrative hearing.

Respectfully submitted this 10th day of November, 2008.

Concerned Citizen

John Gibby 10/10/08

John Gibby
4887 Gum Road
Tallahassee, FL
32304

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing has been furnished to the following by U.S. Mail on this 10th day of November, 2008:

Mr. Glenn Farris, President and CEO
Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane, Suite 440
Atlanta, Georgia 30092

Ronni Moore
Office of General Counsel
Department of Environmental Protection
3900 Commonwealth Blvd.
Tallahassee, FL 32399-2600

Trina Vielhauer, Chief
Bureau of Air Regulation
Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

John Gibby 10/10/08

John Gibby
4887 Gum Road
Tallahassee, FL
32304

Gibson, Victoria

From: Crandall, Lea
Sent: Monday, November 10, 2008 4:22 PM
To: Chisolm, Jack; Brown, Lisa L.; Gibson, Victoria; Moore, Ronni; Linero, Alvaro
Subject: Petition for Hearing - BG&E - 0730109-001-AC
Attachments: BG&E - Gibby Petition - 08-2680.pdf

Attached is a petition filed by John Gibby today re: BG&E - 0730109-001-AC.

Thanks,
Lea

Lea Crandall
Agency Clerk
Office of General Counsel
3900 Commonwealth Boulevard, MS 35
Tallahassee, FL 32399-3000
Phone: (850) 245-2212
Fax: (850) 245-2303

FLORIDA DISCOUNT CARD: More than 3,000 retail pharmacies in Florida are now a part of the Florida Discount Drug Card program. See www.FloridaDiscountDrugCard.com for more info or call toll-free, 1-866-341-8894.

BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

BILL PROCTER, LEON COUNTY
COMMISSIONER, 1ST DISTRICT
OF LEON COUNTY, FLORIDA,

Petitioner

Case No.
FDEP File No. 0730109-0001-AC

v.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Respondent

PETITION FOR ADMINISTRATIVE HEARING
PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES

Petitioner, BILL PROCTER, COUNTY COMMISSIONER FOR THE 1ST DISTRICT FOR LEON COUNTY OF FLORIDA, hereby petitions for an administrative hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, challenging Respondent, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S ("FDEP"), approval of Biomass Gas & Electric of Tallahassee, LLC's ("BG&E") application for an air pollution construction permit which authorizes the construction of a nominal 42 megawatts biomass-fed integrated gasification and combined cycle power plant called the Tallahassee Renewable Energy Center. In support thereof, CONCERNED CITIZEN states as follows:

The Parties and Notice of Agency Action

1. The name and address of the affected agency is the FDEP, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000. The telephone number of the Agency is (850) 245-2118.

2. The Agency's file or identification number is 0730109-0001-AC.
3. The name and address of the Petitioner is Bill Proctor, County Commissioner for the 1st District of Leon County, Florida, 301 S. Monroe Street, Room 202, Tallahassee, Florida 32301. The telephone number is (850) 606-5361.
4. FDEP issued a written notice of intent to issue draft air Construction Permit on October 27, 2008. The Petitioner received FDEP's written notice of intent to issue a Draft Air Construction Permit by electronic mail on or about October 28, 2008, pursuant to Florida Statute §120.60(3). By operation of law, this Petition is filed within a timely manner.

The Petitioner's Substantial Interests are Affected by this Determination

5. The Petitioner, Bill Proctor, believes that the health, well being, and quality of life of himself, his family, and citizens of Leon County in District 1, will be significantly damaged by the air emissions from the applicants proposed facility.
6. By approval of the air construction permit, BG&E's permitted facility will emit air pollutants that will have an immediate and real impact on the Petitioner's substantial interest.
7. For a party to have standing to challenge proposed agency action pursuant to Sections 120.569 and 120.57(1), Florida Statutes, the party must demonstrate its substantial interest are determined or affected by the proposed agency action. This requirement is met when a party demonstrates that, as a result of the agency action, it will suffer an injury in fact, of sufficient immediacy to entitle it to an administrative proceeding on the action and the substantial injury that would result from the agency action is of the type or nature the administrative proceeding is designed to protect. Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d. DCA 1981).

8. As a resident of Leon County and working in the vicinity of the proposed facility site, the Petitioner's substantial interest is being determined in this proceeding. Further, the substantial injury that will result by the presence in the outdoor atmosphere of the state of any one or more substances or pollutants in quantities which are or may be harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation, §62.210.200(12), F.A.C., such injury that this administrative proceeding is designed to protect. Therefore, the Petitioner has standing to challenge FDEP's decision to approve BG&E's application for an air pollution construction permit.

Disputed Issues of Material Fact

9. The Petitioner disputes the determination by FDEP that the applicant, BG&E, has shown that the installation is provided or equipped with pollution control facilities that will abate or prevent pollution to the degree that will comply with the standards or rules adopted by the department in accordance with Florida Statute § 403.087.

10. Petitioner failed to provide reasonable assurance that operation of the proposed facility will not adversely impact air quality and failed provide a reasonable assurance that the project will not cause or contribute to a violation of a state or federal ambient air quality standard.

Ultimate Facts Warranting Reversal of Approval of the Permit

11. The Petitioner contends that the applicant has not adequately demonstrated or proven that the proposed project will not adversely impact or exceed air quality standards set forth in Florida Statutes § 403.087.

DATED this 7 day of November, 2008.

Respectfully submitted,



Bill Proctor, Commissioner
District 1, Leon County, Florida

RECEIVED

SEP 17 2008

DIVISION OF AIR
RESOURCES MANAGEMENT

Gibson, Victoria

From: Gibson, Victoria
Sent: Monday, November 10, 2008 9:42 AM
To: Vielhauer, Trina
Subject: FW: Two filings re: BG&E - 0730109-001-AC
Attachments: Di4700811101025.PDF; Document.pdf

FYI,

Vickie

From: Crandall, Lea
Sent: Monday, November 10, 2008 9:35 AM
To: Chisolm, Jack; Brown, Lisa L.; Gibson, Victoria; Linero, Alvaro; Moore, Ronni
Subject: Two filings re: BG&E - 0730109-001-AC

A petition was filed by Bill Proctor, Leon County Commissioner and a Request for Extension of Time was filed by BG&E on Friday, 11/07/08. Both are attached.

Thanks,
Lea

Lea Crandall
Agency Clerk
Office of General Counsel
3900 Commonwealth Boulevard, MS 35
Tallahassee, FL 32399-3000
Phone: (850) 245-2212
Fax: (850) 245-2303

FLORIDA DISCOUNT CARD: More than 3,000 retail pharmacies in Florida are now a part of the Florida Discount Drug Card program. See www.FloridaDiscountDrugCard.com for more info or call toll-free, 1-866-341-8894.

From: Knight, Barnard
Sent: Monday, November 10, 2008 9:26 AM
To: Crandall, Lea
Subject: From KONICA MINOLTA Di470

THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

RECEIVED
NOV 17 2008

In the Matter of an
Application for Air Construction Permit by:

BUREAU OF AIR REGULATION

Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane, Suite 440
Atlanta, Georgia 30092

Tallahassee Renewable Energy Center
Air Permit No. 0730109-001-AC
Leon County, Florida

REQUEST FOR EXTENSION OF TIME

By and through undersigned counsel, Biomass Gas and Electric of Tallahassee, LLC (BG&E) hereby requests, pursuant to Florida Administrative Code Rule 62-110.106(4), an extension of time **to and including November 18, 2008**, in which to file a Petition for Administrative Proceedings in the above-styled matter. As good cause for granting this request, BG&E states the following:

1. On or about October 27, 2008, BG&E received from the Department of Environmental Protection (Department) a Technical Evaluation and Preliminary Determination, a Proposed Draft Permit, and a Written Notice of Intent to Issue Air Permit (Permit No. 0730109-001-AC) for the Tallahassee Renewable Energy Center located in Leon County, Florida.
2. The Proposed Draft Permit and Technical Evaluation and Preliminary Determination contain several provisions that warrant clarification or correction.
3. Representatives of BG&E will correspond with staff of the Department's Bureau of Air Regulation in an effort to resolve all issues.
4. This request is filed simply as a protective measure to avoid waiver of BG&E's right to challenge certain conditions contained in the Proposed Draft Permit and Technical Evaluation and Preliminary Determination. Grant of this request will not prejudice either party, but

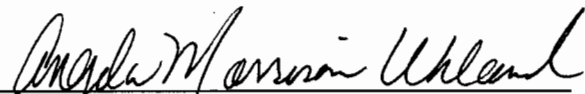
will further their mutual interest and likely avoid the need to file a petition and proceed to a formal administrative hearing.

5. Counsel for BG&E contacted Ronni Moore with the Department's Office of General Counsel regarding this request.

WHEREFORE, BG&E respectfully requests that the time for filing a Petition for Administrative Proceedings with regard to the above-referenced Technical Evaluation and Preliminary Determination, Proposed Draft Permit, and Written Notice of Intent to Issue Air Permit (Permit No. 0730109-001-AC) be formally extended to and including November 18, 2008. If the Department denies this request, BG&E requests the opportunity to file a Petition for Administrative Proceedings within 10 days of such denial.

Respectfully submitted this 7th day of November, 2008.

HOPPING GREEN & SAMS, P.A.



Angela Morrison Uhlend
Fla. Bar No. 0855766
123 South Calhoun Street
Post Office Box 6526
Tallahassee, FL 32314
(850) 222-7500

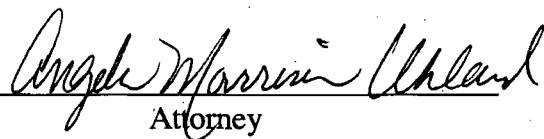
Attorney for BIOMASS GAS AND ELECTRIC
Of TALLAHASSEE, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to the following by
U.S. Mail on this 7th day of November, 2008:

Ronni Moore
Office of General Counsel
Department of Environmental Protection
3900 Commonwealth Blvd.
Tallahassee, FL 32399-2600

Trina Vielhauer, Chief
Bureau of Air Regulation
Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400



Attorney

289361

Gibson, Victoria

From: Crandall, Lea
Sent: Monday, November 17, 2008 12:26 PM
To: Chisolm, Jack; Moore, Ronni; Brown, Lisa L.; Gibson, Victoria; Linero, Alvaro
Subject: Two Requests for Extensions of Time - 0730109-001-AC - BG&E
Attachments: BG&E - Spencer Petition - OGC 08-2724.pdf; BG&E - Providence Neighborhood Petition - OGC 08-2723.pdf

FYI, two more Requests for Extensions of Time were filed today re: 0730109-001-AC - BG&E.

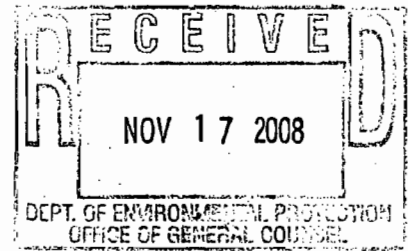
Thanks,
Lea

Lea Crandall
Agency Clerk
Office of General Counsel
3900 Commonwealth Boulevard, MS 35
Tallahassee, FL 32399-3000
Phone: (850) 245-2212
Fax: (850) 245-2303

FLORIDA DISCOUNT CARD: More than 3,000 retail pharmacies in Florida are now a part of the Florida Discount Drug Card program. See www.FloridaDiscountDrugCard.com for more info or call toll-free, 1-866-341-8894.

November 10, 2008

Ms. Lea Crandall, Agency Clerk
FDEP Office of General Counsel
3900 Commonwealth Blvd MS 35
Tallahassee, FL 32399-3000



Re: DEP File No. 0730109-001-AC
Biomass Gasification Combined Cycle Unit
Biomass Gas and Electric of Tallahassee, LLC

Dear Ms. Crandall,

I am a person whose substantial interests are affected by this proposed permitting decision and am requesting an EXTENSION OF TIME of 90 days to file a petition for an administrative hearing in accordance with Sections 120.569 and 120.57, F.S., so that I may compile the material facts required for the petition.

Sincerely,

Ratni Spencer Ratni Spencer
1612 Levy Ave
Tallahassee, FL 32310

c: Mr. Glenn Farris
Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane, Suite 440
Atlanta, GA 30092

Tallahassee-Leon County GIS
 Leon County Courthouse
 P3 Level, 301 S Monroe St
 Tallahassee, FL 32301



City of Tallahassee
 Growth and Environmental Management
 Land Use and Environmental Services
 100 W. Virginia St.
 Tallahassee, FL 32301

IMPORTANT ADDRESS CHANGE NOTICE

SPENCER RAHNI BENETTA

NOTICE DATE: 10/25/2007

1520 LEVY AVE
 TALLAHASSEE FL 32310

The City of Tallahassee, in cooperation with Leon County, established a street naming and property addressing system in 1995. The purpose of the addressing system is to aid our emergency services (fire, ambulance, and law enforcement) in quickly finding residences and places of business, in case of an emergency. The Postal Service has also adopted this property addressing system as the official mailing addresses. Below is your NEW Address and Street NAME which REPLACES your previous street address. "IF THE PROPERTY LISTED BELOW IS RENTAL PROPERTY, IT IS YOUR RESPONSIBILITY AS THE PROPERTY OWNER TO ADVISE THE RENTER OF THE CHANGE IN ADDRESS." This new address will become your permanent property address for the parcel listed. If your mail is delivered to your home, the new address will become your mailing address. If you receive mail at the Post Office, the new address will not affect your mailing address and will only be used to locate your property in an emergency. THE UNIFORM ORDINANCE ADOPTED BY BOTH THE CITY AND COUNTY REQUIRES THAT YOU POST YOUR ADDRESS NUMBER IN A VISIBLE LOCATION AND THE ADDRESS NUMBERS BE A MINIMUM OF 3" HIGH FOR RESIDENTIAL AND MINIMUM 7" HIGH FOR COMMERCIAL PROPERTIES. This request is made to ensure that all numbers are visible for any 9-1-1 Emergency Response Team. We are also asking the numbers be posted on the front of your home or business. If your home or business is not visible from the street, the address should be posted on a sign post or mailbox leading to your home or business. Please post your new address number to your home or business within forty-five (45) days from the date of this notice and remember to notify all correspondents of your new address. In an effort to make the transition as smooth as possible, the Postal Service will continue to deliver mail to your old and new address for one year from the date of this notice. However, after one (1) year, the old address will be eliminated from the Postal Service Database.

YOUR ADDRESS CHANGE WILL BECOME EFFECTIVE FOURTY-FIVE (45) DAYS FROM THE DATE OF THIS NOTICE. PLEASE CONVERT TO YOUR NEW STREET ADDRESS NUMBER AT THAT TIME. PLEASE ALSO BE AWARE THAT AFTER THE FOURTY-FIVE (45) DAY PERIOD YOUR ADDRESS CHANGE WILL BE REFLECTED IN THE 9-1-1 DATABASE. YOUR ADDRESS SHOULD ALSO BE POSTED AT THIS TIME TO AID AND ASSIST EMERGENCY RESPONDERS.

BELOW IS YOUR CORRECT ADDRESS NUMBER AND STREET NAME:

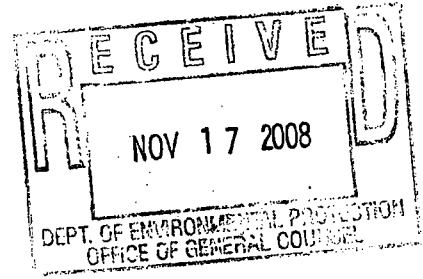
1612 LEVY AVE

YOUR OLD ADDRESS WAS: 1520 LEVY AVE

FOR PROPERTY TAX NUMBER: 41-02-30- P-0081

IF THE ABOVE IS NOT YOUR ADDRESS OR PROPERTY TAX ID NUMBER, AS FOUND ON YOUR PROPERTY TAX STATEMENT OR FOR INFORMATION ABOUT THIS NOTICE, PLEASE CALL THE GIS MAPPING SPECIALIST AT (850) 606-5504.

COMPLIANCE DATE FOR THIS NOTICE IS: 12/09/2007



November 10, 2008

Ms. Lea Crandall, Agency Clerk
FDEP Office of General Counsel
3900 Commonwealth Blvd MS 35
Tallahassee, FL 32399-3000

Re: DEP File No. 0730109-001-AC
Biomass Gasification Combined Cycle Unit
Biomass Gas and Electric of Tallahassee, LLC

Dear Ms. Crandall,

I am a person whose substantial interests are affected by this proposed permitting decision and am requesting an EXTENSION OF TIME of 90 days to file a petition for an administrative hearing in accordance with Sections 120.569 and 120.57, F.S., so that I may compile the material facts required for the petition.

Sincerely,

Rev. Roger Wells (Rev. Roger Wells)
Providence Neighborhood Assn.
1320 Levy Ave.
Talla., FL 32310

c: Mr. Glenn Farris
Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane, Suite 440
Atlanta, GA 30092

Gibson, Victoria

From: Crandall, Lea
Sent: Monday, November 17, 2008 3:21 PM
To: Chisolm, Jack; Moore, Ronni; Brown, Lisa L.; Gibson, Victoria; Linero, Alvaro
Subject: BG&E Petitions - 0730109-001-AC
Attachments: Franklin Petition - 08-2732.pdf; Gibby - Request for Extension of Time.pdf; Gibson Petition - 08-2725.pdf; Fulford Petition - 08-2726.pdf; Dupree Petition - 08-2727.pdf; Jackson Petition - 08-2728.pdf; Losey Petition - 08-2729.pdf; Harden Petition - 08-2730.pdf; Musgray Petition - 08-2731.pdf

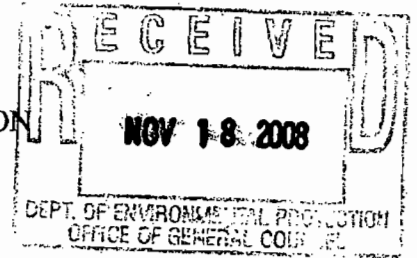
Eight Petitions and one Request for Extension of Time were filed this afternoon. They are attached.

Thanks,
Lea

Lea Crandall
Agency Clerk
Office of General Counsel
3900 Commonwealth Boulevard, MS 35
Tallahassee, FL 32399-3000
Phone: (850) 245-2212
Fax: (850) 245-2303

FLORIDA DISCOUNT CARD: More than 3,000 retail pharmacies in Florida are now a part of the Florida Discount Drug Card program. See www.FloridaDiscountDrugCard.com for more info or call toll-free, 1-866-341-8894.

THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION



In the Matter of an
Application for Air Construction Permit by:

Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane, Suite 440
Atlanta, Georgia 30092

Tallahassee Renewable Energy Center
Leon County, Florida
OGC No. 08-2673
Air Permit No. 0730109-001-AC

REQUEST FOR SECOND EXTENSION OF TIME

By and through undersigned counsel, Biomass Gas and Electric of Tallahassee, LLC (BG&E) hereby requests, pursuant to Florida Administrative Code Rule 62-110.106(4), a second extension of time to and including November 25, 2008, in which to file a Petition for Administrative Proceedings in the above-styled matter. As good cause for granting this request, BG&E states the following:

1. On or about October 27, 2008, BG&E received from the Department of Environmental Protection (Department) a Technical Evaluation and Preliminary Determination, a Proposed Draft Permit, and a Written Notice of Intent to Issue Air Permit (Permit No. 0730109-001-AC) for the Tallahassee Renewable Energy Center located in Leon County, Florida.

2. On November 7, 2008, BG&E, by and through undersigned counsel, timely filed a Request for Extension of Time with the Department, requesting an extension of time to and including November 18, 2008, in which to file a Petition for Administrative Proceeding.

3. The Department granted BG&E's requested extension of time by order dated November 14, 2008. The order provided that BG&E had until November 18, 2008, to file a petition. The Department sent a copy of the order via facsimile to CF's representative (undersigned counsel) on November 14, 2008.

4. While the order granting the first requested extension stated that no further extensions would be granted, BG&E and the Department have agreed that a request for a second extension may be filed.

5. The Proposed Draft Permit contains several provisions that warrant clarification or correction.

6. Representatives of BG&E have corresponded and will continue to correspond with staff of the Department's Bureau of Air Regulation in an effort to resolve all issues.

7. This request is filed simply as a protective measure to avoid waiver of BG&E's right to file a petition. Grant of this request will not prejudice either party, but will further their mutual interest and likely avoid the need to file a petition.

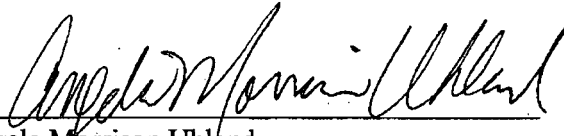
8. Counsel for BG&E contacted Ronni Moore with the Department's Office of General Counsel regarding this request, and the Department has no objection.

WHEREFORE, BG&E respectfully requests that the time for filing a Petition for Administrative Hearing with regard to the above-referenced Technical Evaluation and Preliminary Determination, Proposed Draft Permit, and Written Notice of Intent to Issue Air Permit (Permit No. 0730109-001-AC) be formally extended to and including November 25, 2008. If the Department

denies this request, BG&E requests the opportunity to file a Petition for Administrative Proceedings within 7 days of such denial.

Respectfully submitted this 18th day of November, 2008.

HOPPING GREEN & SAMS, P.A.



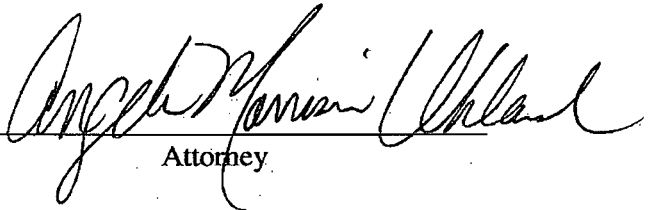
Angela Morrison Uhland
Fla. Bar No. 0855766
Douglas S. Roberts
Fla. Bar No. 0559466
Gary P. Sams
Fla. Bar No. 0134594
P.O. Box 6526
Tallahassee, FL 32314
(850) 222-7500
(850) 521-2758 fax
auhland@hgslaw.com

Attorneys for BIOMASS GAS AND ELECTRIC
OF TALLAHASSEE, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to the following by
U.S. Mail on this 18th day of November, 2008:

Ronni Moore
Office of General Counsel
Department of Environmental Protection
3900 Commonwealth Blvd.
Tallahassee, FL 32399-2600



Attorney

289830

Gibson, Victoria

From: Crandall, Lea
Sent: Wednesday, November 19, 2008 9:45 AM
To: Moore, Ronni; Gibson, Victoria; Linero, Alvaro
Subject: BG&E Second Request for Extension of Time
Attachments: BG&E Second Request for Extension of Time - 08-2673.pdf

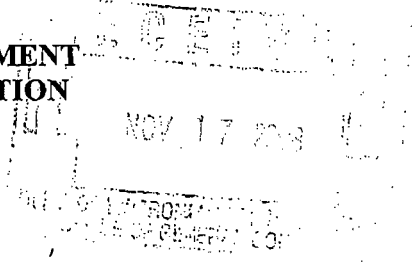
FYI, please see BG&E's Second Request for Extension of Time.

Thanks,
Lea

Lea Crandall
Agency Clerk
Office of General Counsel
3900 Commonwealth Boulevard, MS 35
Tallahassee, FL 32399-3000
Phone: (850) 245-2212
Fax: (850) 245-2303

FLORIDA DISCOUNT CARD: More than 3,000 retail pharmacies in Florida are now a part of the Florida Discount Drug Card program. See www.FloridaDiscountDrugCard.com for more info or call toll-free, 1-866-341-8894.

**BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION**



**In the Matter of an
Application for Air Construction Permit by:**

**Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane , Suite 440
Atlanta, Ga. 30092**

**Tallahassee Renewable Energy Center
Air Permit No. 0730109-001-AC
Leon County, Florida**

PETITION FOR ADMINISTRATIVE HEARING

Petitioner, Anita Franklin, hereby petitions, pursuant to sections 120.569, and 120.57, Florida Statutes, the Florida Department of Environmental Protection ("FDEP") for an administrative hearing in which she might challenge the FDEP's Notice of Intent to Issue a Draft Air Construction Permit in this proceeding, and state:

1. The name and address of the agency affected by this petition is

Florida Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, Florida 32399-3000
2. The agency's file number is 0730109-001-AC
3. The address of petitioner is 1503 Coleman Street, Tallahassee, Florida 32310.
4. Petitioner received notice of this agency action when FDEP issued a Notice of Intent to Issue An Air Construction Permit by publication in the local newspaper.
5. Petitioner objects to the determination by the agency that the applicant has provided reasonable assurance that this project will not adversely impact the community's air quality, and that the project will comply with applicable legal standards.
6. The agency proposes to authorize operation of the first plant of this type to be established in this region of the country. The plant will utilize an extensive biofuel delivery system to transport wood chips on-site. The applicant describes an elaborate process to remove dust particles and

tars from the plant's air emissions, but fails to offer proven results of these emissions systems. With little actual operational experience for an operation such as this, the agency has unreasonably relied upon assertions by the applicant as to the operation of the proposed plant. Biomass plants can have important environmental impacts due to particulate emissions, which must be controlled with special devices. Many of the pollutants that may emerge from the Tallahassee BGE plant have been identified as having adverse effects on public health. They can be especially injurious to residents with existing respiratory or chronic illnesses. Petitioner has a 14-year old daughter who lives in her home that suffers from asthma, and is prone to serious asthma attacks. The existence of the plant would impose additional expense on Petitioner to manage her daughter's asthma condition.

7. The agency has granted waivers and exemptions for this plant without adequate justification, that increase the risk of harm to air quality. Petitioner is aware that the operation of a similar plant in another region of the country posed substantial concerns to air quality, as well as public health and safety.

8. If the proposed plant is allowed to operate, Petitioner's proximity to the site will cause Petitioner's family to experience the detrimental impact to air quality caused by the plant. In addition, Petitioner will experience extreme nuisances from the plant in the form of noise, odor and property intrusion.

9. Petitioner ownership of property in an area directly affected by the operation of the plant, and the threat to health and safety posed by this plant constitutes harm to Petitioner's substantial interests, that will be directly affected if the agency authorization of the construction permit.

10. The interests of Petitioner are the type of interests this proceeding is designed to protect, *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), reh. denied, 415 So.2d 1359 (Fla. 1982).

11. Petitioner expressly disputes all facts and evidence put forth by the applicant purporting to establish that no adverse impact to the air quality will result from the operation of the proposed

plant.

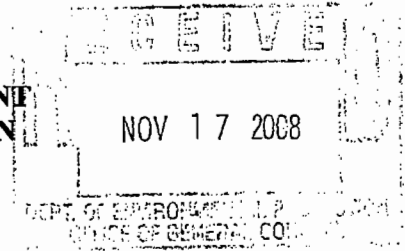
12. Petitioner asserts that the application in this proceeding should be denied because it does not support a conclusion that the proposed plant will not be adverse to this community's air quality, as set provided in applicable law.

13. Petitioner therefore requests that a formal hearing be scheduled to contest the evidence put forth by the applicant, and that at the conclusion of that hearing that the application for an air permit be denied.

Dated this 15th day of November, 2008.


Anita Franklin

**BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION**



**In the Matter of an
Application for Air Construction Permit by:**

**Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane , Suite 440
Atlanta, Ga. 30092**

**Tallahassee Renewable Energy Center
Air Permit No. 0730109-001-AC
Leon County, Florida**

REQUEST FOR EXTENSION OF TIME

I, John Gibby of 4887 Gum Road Tallahassee Florida, hereby requests, pursuant to Florida Statutes, Administrative Code and Rules, an extension of time to and including December 2, 2008, to submit written comment in the above-styled matter. As good cause for granting this request, John Gibby states the following:

1. On or about October 27, 2008, John Gibby received from the Department of Environmental Protection (Department) a Technical Evaluation and Preliminary Determination, a Proposed Draft Permit, and a written Notice of Intent to Issue Air Permit (Permit No. 0730109-001-AC) for the Tallahassee Renewable Energy Center located in Leon County, Florida.
2. The Proposed Draft permit and Technical Evaluation and Preliminary Determination contain several provisions that warrant clarification or correction.
3. On or about November 7, 2008, The Florida Department of Environmental Protection received a request for extension of time from the applicant, Biomass Gas and Electric.
4. On or about November 7, 2008, The Florida Department of Environmental forwarded John Gibby's questions to the applicant Biomass Gas and Electric.

5. On or about November 14, 2008, the applicant, Biomass Gas and Electric notified John Gibby that the requested information will be received no later than the close of business Monday November 17, 2008.

WHEREFORE, JOHN GIBBY respectfully requests that the time to submit written comments with regard to the above-referenced Technical Evaluation, Preliminary Determination, Proposed Draft Permit, and a written Notice of Intent to Issue Air Permit (Permit No. 0730109-001-AC) for the Tallahassee Renewable Energy Center located in Leon County, Florida be formally extended to and including December 2, 2008. If the Department denies this request, John Gibby requests opportunity to submit written comments within 10 days of such denial,

Respectfully submitted this 17th day of November, 2008.

Concerned Citizen

 11/17/08
John Gibby

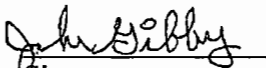
Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing has been furnished to the following by U.S. Mail on

this 17th day of November, 2008:

Mr. Glenn Farris, President and CEO
Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane, Suite 440
Atlanta, Georgia 30092

Dated this 17 day of November, 2008.


Signature

BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

In the Matter of an
Application for Air Construction Permit by:

Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane , Suite 440
Atlanta, Ga. 30092

Tallahassee Renewable Energy Center
Air Permit No. 0730109-001-AC
Leon County, Florida

PETITION FOR ADMINISTRATIVE HEARING

Petitioner, Rainey Gibson hereby petitions, pursuant to sections 120.569, and 120.57, Florida Statutes, the Florida Department of Environmental Protection ("FDEP") for an administrative hearing in which he might challenge the FDEP's Notice of Intent to Issue a Draft Air Construction Permit in this proceeding, and state:

1. The name and address of the agency affected by this petition is

Florida Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, Florida 32399-3000

2. The agency's file number is 0730109-001-AC

3. The address of petitioner is 1511 Coleman Street, Tallahassee, Florida 32310.

4. Petitioner received notice of this agency action when FDEP issued a Notice of Intent to Issue An Air Construction Permit by publication in the local newspaper.

5. Petitioner objects to the determination by the agency that the applicant has provided reasonable assurance that this project will not adversely impact the community's air quality, and that the project will comply with applicable legal standards.

6. The agency proposes to authorize operation of the first plant of this type to be established in this region of the country. The plant will utilize an extensive biofuel delivery system to transport wood chips on-site. The applicant describes an elaborate process to remove dust particles and

tars from the plant's air emissions, but fails to offer proven results of these emissions systems. With little actual operational experience for an operation such as this, the agency has unreasonably relied upon assertions by the applicant as to the operation of the proposed plant. Biomass plants can have important environmental impacts due to particulate emissions, which must be controlled with special devices. Many of the pollutants that may emerge from the Tallahassee BGE plant have been identified as having adverse effects on public health. They can be especially injurious to residents with existing respiratory or chronic illnesses. Petitioner's son has a respiratory condition, asthma, that would be affected by diminished air quality cause by the proposed plant.

7. The agency has granted waivers and exemptions for this plant without adequate justification, that increase the risk if harm to air quality. Petitioner is aware that the operation of a similar plant in another region of the country posed substantial concerns to air quality, as well as public health and safety.

8. If the proposed plant is allowed to operate, Petitioner's proximity to the site will cause Petitioner's family to experience the detrimental impact to air quality caused by the plant. In addition, Petitioner will experience extreme nuisances from the plant in the form of noise, odor and property intrusion.

9. Petitioner's ownership of property in an area directly affected by the operation of the plant, and the threat to health and safety posed by this plant constitutes harm to Petitioner's substantial interests, that will be directly affected if the agency authorization of the construction permit.

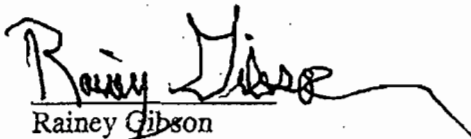
10. The interests of Petitioner are the type of interests this proceeding is designed to protect, *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), reh. denied, 415 So.2d 1359 (Fla. 1982).

11. Petitioner expressly disputes all facts and evidence put forth by the applicant purporting to establish that no adverse impact to the air quality will result from the operation of the proposed plant.

12. Petitioner asserts that the application in this proceeding should be denied because it does not support a conclusion that the proposed plant will not be adverse to this community's air quality, as set provided in applicable law.

13. Petitioner therefore requests that a formal hearing be scheduled to contest the evidence put forth by the applicant, and that at the conclusion of that hearing that the application for an air permit be denied.

Dated this 15th day of November, 2008.


Rainey Gibson

BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

NOV 17 2008

In the Matter of an
Application for Air Construction Permit by:

Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane , Suite 440
Atlanta, Ga. 30092

Tallahassee Renewable Energy Center
Air Permit No. 0730109-001-AC
Leon County, Florida

PETITION FOR ADMINISTRATIVE HEARING

Petitioner, Bob Fulford, hereby petitions, pursuant to sections 120.569, and 120.57, Florida Statutes, the Florida Department of Environmental Protection ("FDEP") for an administrative hearing in which he might challenge the FDEP's Notice of Intent to Issue a Draft Air Construction Permit in this proceeding, and state:

1. The name and address of the agency affected by this petition is

Florida Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, Florida 32399-3000
2. The agency's file number is 0730109-001-AC
3. The address of petitioner is 231 Westridge Drive, Tallahassee, Florida 32304.
4. Petitioner received notice of this agency action when FDEP issued a Notice of Intent to Issue An Air Construction Permit by publication in the local newspaper.
5. Petitioner objects to the determination by the agency that the applicant has provided reasonable assurance that this project will not adversely impact the community's air quality, and that the project will comply with applicable legal standards.
6. The agency proposes to authorize operation of the first plant of this type to be established in this region of the country. The plant will utilize an extensive biofuel delivery system to transport wood chips on-site. The applicant describes an elaborate process to remove dust particles and

tars from the plant's air emissions, but fails to offer proven results of these emissions systems. With little actual operational experience for an operation such as this, the agency has unreasonably relied upon assertions by the applicant as to the operation of the proposed plant. Biomass plants can have important environmental impacts due to particulate emissions, which must be controlled with special devices. Many of the pollutants that may emerge from the Tallahassee BGE plant have been identified as having adverse effects on public health.

7. The agency has granted waivers and exemptions for this plant without adequate justification, that increase the risk of harm to air quality. Petitioner is aware that the operation of a similar plant in another region of the country posed substantial concerns to air quality, as well as public health and safety.

8. If the proposed plant is allowed to operate, Petitioner's proximity to the site will cause Petitioner's family to experience the detrimental impact to air quality caused by the plant. In addition, Petitioner will experience extreme nuisances from the plant in the form of noise, odor and property intrusion.

9. Petitioner ownership of property in an area directly affected by the operation of the plant, and the threat to health and safety posed by this plant constitutes harm to Petitioner's substantial interests, that will be directly affected if the agency authorization of the construction permit.

10. The interests of Petitioner are the type of interests this proceeding is designed to protect, *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), reh. denied, 415 So.2d 1359 (Fla. 1982).

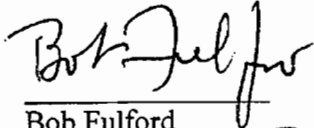
11. Petitioner expressly disputes all facts and evidence put forth by the applicant purporting to establish that no adverse impact to the air quality will result from the operation of the proposed plant.

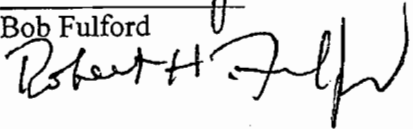
12. Petitioner asserts that the application in this proceeding should be denied because it does not support a conclusion that the proposed plant will not be adverse to this community's air

quality, as set provided in applicable law.

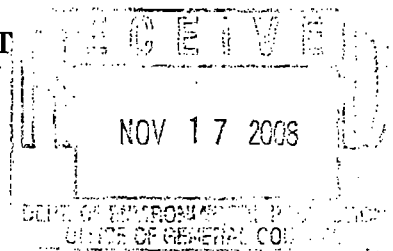
13. Petitioner therefore requests that a formal hearing be scheduled to contest the evidence put forth by the applicant, and that at the conclusion of that hearing that the application for an air permit be denied.

Dated this 16th day of November, 2008.



Bob Fulford


**BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION**



**In the Matter of an
Application for Air Construction Permit by:**

**Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane , Suite 440
Atlanta, Ga. 30092**

**Tallahassee Renewable Energy Center
Air Permit No. 0730109-001-AC
Leon County, Florida**

PETITION FOR ADMINISTRATIVE HEARING

Petitioner, Willie Dupree hereby petitions, pursuant to sections 120.569, and 120.57, Florida Statutes, the Florida Department of Environmental Protection ("FDEP") for an administrative hearing in which he might challenge the FDEP's Notice of Intent to Issue a Draft Air Construction Permit in this proceeding, and state:

1. The name and address of the agency affected by this petition is

Florida Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, Florida 32399-3000
2. The agency's file number is 0730109-001-AC
3. The address of petitioner is 1442 Coleman Street, Tallahassee, Florida 32310.
4. Petitioner received notice of this agency action when FDEP issued a Notice of Intent to Issue An Air Construction Permit by publication in the local newspaper.
5. Petitioner objects to the determination by the agency that the applicant has provided reasonable assurance that this project will not adversely impact the community's air quality, and that the project will comply with applicable legal standards.
6. The agency proposes to authorize operation of the first plant of this type to be established in this region of the country. The plant will utilize an extensive biofuel delivery system to transport wood chips on-site. The applicant describes an elaborate process to remove dust particles and

tars from the plant's air emissions, but fails to offer proven results of these emissions systems. With little actual operational experience for an operation such as this, the agency has unreasonably relied upon assertions by the applicant as to the operation of the proposed plant. Biomass plants can have important environmental impacts due to particulate emissions, which must be controlled with special devices. Many of the pollutants that may emerge from the Tallahassee BGE plant have been identified as having adverse effects on public health. They can be especially injurious to residents with existing respiratory or chronic illnesses. Petitioner has a severe respiratory condition and a sinus condition that would be affected by diminished air quality cause by the proposed plant.

7. The agency has granted waivers and exemptions for this plant without adequate justification, that increase the risk if harm to air quality. Petitioner is aware that the operation of a similar plant in another region of the country posed substantial concerns to air quality, as well as public health and safety.

8. If the proposed plant is allowed to operate, Petitioner's proximity to the site will cause Petitioner's family to experience the detrimental impact to air quality caused by the plant. In addition, Petitioner will experience extreme nuisances from the plant in the form of noise, odor and property intrusion.

9. Petitioner ownership of property in an area directly affected by the operation of the plant, and the threat to health and safety posed by this plant constitutes harm to Petitioner's substantial interests, that will be directly affected if the agency authorization of the construction permit.


10. The interests of Petitioner are the type of interests this proceeding is designed to protect, *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), reh. denied, 415 So.2d 1359 (Fla. 1982).

11. Petitioner expressly disputes all facts and evidence put forth by the applicant purporting to establish that no adverse impact to the air quality will result from the operation of the proposed plant.

12. Petitioner asserts that the application in this proceeding should be denied because it does not support a conclusion that the proposed plant will not be adverse to this community's air quality, as set provided in applicable law.

13. Petitioner therefore requests that a formal hearing be scheduled to contest the evidence put forth by the applicant, and that at the conclusion of that hearing that the application for an air permit be denied.

Dated this 16 day of November, 2008.


Willie Dupree

BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

NOV 17 2008

In the Matter of an
Application for Air Construction Permit by:

Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane, Suite 440
Atlanta, Ga. 30092

Tallahassee Renewable Energy Center
Air Permit No. 0730109-001-AC
Leon County, Florida

PETITION FOR ADMINISTRATIVE HEARING

Petitioner, Erwin Jackson, hereby petitions, pursuant to sections 120.569, and 120.57, Florida Statutes, the Florida Department of Environmental Protection ("FDEP") for an administrative hearing in which he might challenge the FDEP's Notice of Intent to Issue a Draft Air Construction Permit in this proceeding, and state:

1. The name and address of the agency affected by this petition is

Florida Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, Florida 32399-3000

2. The agency's file number is 0730109-001-AC

3. The address of petitioner is 1341 Jackson Bluff Road, Tallahassee, Florida 32304.

4. Petitioner received notice of this agency action when FDEP issued a Notice of Intent to Issue An Air Construction Permit by publication in the local newspaper.

5. Petitioner objects to the determination by the agency that the applicant has provided reasonable assurance that this project will not adversely impact the community's air quality, and that the project will comply with applicable legal standards.

6. The agency proposes to authorize operation of the first plant of this type to be established in this region of the country. The plant will utilize an extensive biofuel delivery system to transport wood chips on-site. The applicant describes an elaborate process to remove dust particles and

tars from the plant's air emissions, but fails to offer proven results of these emissions systems. With little actual operational experience for an operation such as this, the agency has unreasonably relied upon assertions by the applicant as to the operation of the proposed plant. Biomass plants can have important environmental impacts due to particulate emissions, which must be controlled with special devices. Many of the pollutants that may emerge from the Tallahassee BGE plant have been identified as having adverse effects on public health.

7. The agency has granted waivers and exemptions for this plant without adequate justification, that increase the risk if harm to air quality. Petitioner is aware that the operation of a similar plant in another region of the country posed substantial concerns to air quality, as well as public health and safety.

8. If the proposed plant is allowed to operate, Petitioner's proximity to the site will cause Petitioner to experience the detrimental impact to air quality caused by the plant. In addition, Petitioner will experience extreme nuisances from the plant in the form of noise, odor and property intrusion.

9. Petitioner's ownership of property in an area directly affected by the operation of the plant, and the threat to health and safety posed by this plant constitutes harm to Petitioner's substantial interests, that will be directly affected if the agency authorization of the construction permit.

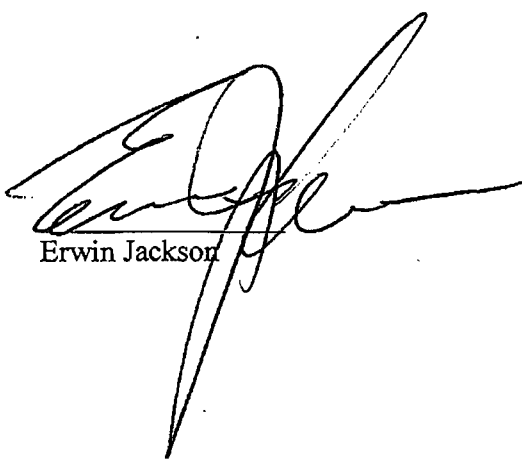
10. The interests of Petitioner are the type of interests this proceeding is designed to protect, *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), reh. denied, 415 So.2d 1359 (Fla. 1982).

11. Petitioner expressly disputes all facts and evidence put forth by the applicant purporting to establish that no adverse impact to the air quality will result from the operation of the proposed plant.

12. Petitioner asserts that the application in this proceeding should be denied because it does not support a conclusion that the proposed plant will not be adverse to this community's air quality, as set provided in applicable law.

13. Petitioner therefore requests that a formal hearing be scheduled to contest the evidence put forth by the applicant, and that at the conclusion of that hearing that the application for an air permit be denied.

Dated this 15th day of November, 2008.



Erwin Jackson

BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

NOV 17 2008

In the Matter of an
Application for Air Construction Permit by:

Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane , Suite 440
Atlanta, Ga. 30092

Tallahassee Renewable Energy Center
Air Permit No. 0730109-001-AC
Leon County, Florida

PETITION FOR ADMINISTRATIVE HEARING

Petitioner, Gerald Losey, hereby petitions, pursuant to sections 120.569, and 120.57, Florida Statutes, the Florida Department of Environmental Protection ("FDEP") for an administrative hearing in which he might challenge the FDEP's Notice of Intent to Issue a Draft Air Construction Permit in this proceeding, and state:

1. The name and address of the agency affected by this petition is

Florida Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, Florida 32399-3000
2. The agency's file number is 0730109-001-AC
3. The address of petitioner is 3379 Lakeview Drive, Tallahassee, Florida 32310.
4. Petitioner received notice of this agency action when FDEP issued a Notice of Intent to Issue An Air Construction Permit by publication in the local newspaper.
5. Petitioner objects to the determination by the agency that the applicant has provided reasonable assurance that this project will not adversely impact the community's air quality, and that the project will comply with applicable legal standards.
6. The agency proposes to authorize operation of the first plant of this type to be established in this region of the country. The plant will utilize an extensive biofuel delivery system to transport wood chips on-site. The applicant describes an elaborate process to remove dust particles and

tars from the plant's air emissions, but fails to offer proven results of these emissions systems. With little actual operational experience for an operation such as this, the agency has unreasonably relied upon assertions by the applicant as to the operation of the proposed plant. Biomass plants can have important environmental impacts due to particulate emissions, which must be controlled with special devices. Many of the pollutants that may emerge from the Tallahassee BGE plant have been identified as having adverse effects on public health. They can be especially injurious to residents with existing respiratory or chronic illnesses. Petitioner has a severe respiratory condition that would be affected by diminished air quality cause by the proposed plant.

7. The agency has granted waivers and exemptions for this plant without adequate justification, that increase the risk if harm to air quality. Petitioner is aware that the operation of a similar plant in another region of the country posed substantial concerns to air quality, as well as public health and safety.

8. If the proposed plant is allowed to operate, Petitioner's proximity to the site will cause Petitioner's family to experience the detrimental impact to air quality caused by the plant. In addition, Petitioner will experience extreme nuisances from the plant in the form of noise, odor and property intrusion.

9. Petitioner ownership of property in an area directly affected by the operation of the plant, and the threat to health and safety posed by this plant constitutes harm to Petitioner's substantial interests, that will be directly affected if the agency authorization of the construction permit.

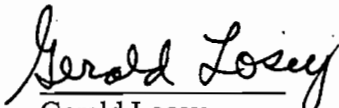
10. The interests of Petitioner are the type of interests this proceeding is designed to protect, *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), reh. denied, 415 So.2d 1359 (Fla. 1982).

11. Petitioner expressly disputes all facts and evidence put forth by the applicant purporting to establish that no adverse impact to the air quality will result from the operation of the proposed plant.

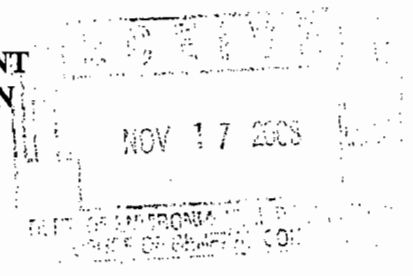
12. Petitioner asserts that the application in this proceeding should be denied because it does not support a conclusion that the proposed plant will not be adverse to this community's air quality, as set provided in applicable law.

13. Petitioner therefore requests that a formal hearing be scheduled to contest the evidence put forth by the applicant, and that at the conclusion of that hearing that the application for an air permit be denied.

Dated this 11-14-08 day of November, 2008.


Gerald Losey

**BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION**



**In the Matter of an
Application for Air Construction Permit by:**

**Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane , Suite 440
Atlanta, Ga. 30092**

**Tallahassee Renewable Energy Center
Air Permit No. 0730109-001-AC
Leon County, Florida**

PETITION FOR ADMINISTRATIVE HEARING

Petitioners, Regina and Jesse Lee Harden, hereby petition, pursuant to sections 120.569, and 120.57, Florida Statutes, the Florida Department of Environmental Protection ("FDEP") for an administrative hearing in which they might challenge the FDEP's Notice of Intent to Issue a Draft Air Construction Permit in this proceeding, and state:

1. The name and address of the agency affected by this petition is

Florida Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, Florida 32399-3000

2. The agency's file number is 0730109-001-AC

3. The address of Petitioners is 1914 Dale Street, Tallahassee, Florida 32310.

4. Petitioners received notice of this agency action when FDEP issued a Notice of Intent to Issue An Air Construction Permit by publication in the local newspaper.

5. Petitioners object to the determination by the agency that the applicant has provided reasonable assurance that this project will not adversely impact the community's air quality, and that the project will comply with applicable legal standards.

6. The agency proposes to authorize operation of the first plant of this type to be established in this region of the country. The plant will utilize an extensive biofuel delivery system to transport wood chips on-site. The applicant describes an elaborate process to remove dust particles and

tars from the plant's air emissions, but fails to offer proven results of these emissions systems. With little actual operational experience for an operation such as this, the agency has unreasonably relied upon assertions by the applicant as to the operation of the proposed plant. Biomass plants can have important environmental impacts due to particulate emissions, which must be controlled with special devices. Many of the pollutants that may emerge from the Tallahassee BGE plant have been identified as having adverse effects on public health. They can be especially injurious to residents with existing respiratory or chronic illnesses. Petitioners have severe chronic conditions that would be affected by diminished air quality cause by the proposed plant. Mrs. Regina Harden suffers from allergies and her grand baby suffers from asthma. Mr. Jesse Harden suffers from epilepsy and is on medication.

7. The agency has granted waivers and exemptions for this plant without adequate justification, that increase the risk if harm to air quality. Petitioner is aware that the operation of a similar plant in another region of the country posed substantial concerns to air quality, as well as public health and safety.

8. If the proposed plant is allowed to operate, Petitioners' proximity to the site will cause Petitioners' to experience the detrimental impact to air quality caused by the plant. In addition, Petitioners will experience extreme nuisances from the plant in the form of noise, odor and property intrusion.

9. Petitioners' ownership of property in an area directly affected by the operation of the plant, and the threat to health and safety posed by this plant constitutes harm to Petitioners' substantial interests, that will be directly affected if the agency authorization of the construction permit.

10. The interests of Petitioners are the type of interests this proceeding is designed to protect, *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), reh. denied, 415 So.2d 1359 (Fla. 1982).

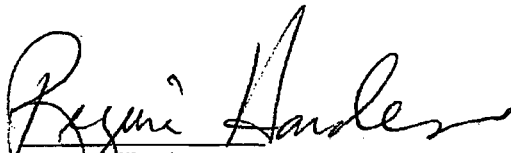
11. Petitioners expressly dispute all facts and evidence put forth by the applicant purporting to establish that no adverse impact to the air quality will result from the operation of the proposed

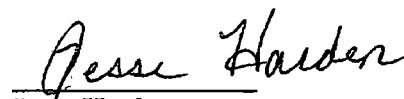
plant.

12. Petitioners assert that the application in this proceeding should be denied because it does not support a conclusion that the proposed plant will not be adverse to this community's air quality, as set provided in applicable law.

13. Petitioners therefore request that a formal hearing be scheduled to contest the evidence put forth by the applicant, and that at the conclusion of that hearing that the application for an air permit be denied.

Dated this 11/12/08 day of November, 2008.


Regina Harden


Jesse Harden

BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

NOV 17 2003

In the Matter of an
Application for Air Construction Permit by:

Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane , Suite 440
Atlanta, Ga. 30092

Tallahassee Renewable Energy Center
Air Permit No. 0730109-001-AC
Leon County, Florida

PETITION FOR ADMINISTRATIVE HEARING

Petitioners, Barbara and Joe Musgray, hereby petition, pursuant to sections 120.569, and 120.57, Florida Statutes, the Florida Department of Environmental Protection ("FDEP") for an administrative hearing in which they might challenge the FDEP's Notice of Intent to Issue a Draft Air Construction Permit in this proceeding, and state:

1. The name and address of the agency affected by this petition is

Florida Department of Environmental Protection
3900 Commonwealth Boulevard, MS 35
Tallahassee, Florida 32399-3000
2. The agency's file number is 0730109-001-AC
3. The address of Petitioners is 1412 Coleman Street, Tallahassee, Florida 32310.
4. Petitioners received notice of this agency action when FDEP issued a Notice of Intent to Issue An Air Construction Permit by publication in the local newspaper.
5. Petitioners object to the determination by the agency that the applicant has provided reasonable assurance that this project will not adversely impact the community's air quality, and that the project will comply with applicable legal standards.
6. The agency proposes to authorize operation of the first plant of this type to be established in this region of the country. The plant will utilize an extensive biofuel delivery system to transport wood chips on-site. The applicant describes an elaborate process to remove dust particles and

tars from the plant's air emissions, but fails to offer proven results of these emissions systems. With little actual operational experience for an operation such as this, the agency has unreasonably relied upon assertions by the applicant as to the operation of the proposed plant. Biomass plants can have important environmental impacts due to particulate emissions, which must be controlled with special devices. Many of the pollutants that may emerge from the Tallahassee BGE plant have been identified as having adverse effects on public health. They can be especially injurious to residents with existing respiratory or chronic illnesses. Petitioners have severe chronic conditions that would be affected by diminished air quality cause by the proposed plant. Mrs Barbara Musgray suffers from sinus and hay fever conditions. Mr. Joe Musgray suffers from allergies and eye irritation.

7. The agency has granted waivers and exemptions for this plant without adequate justification, that increase the risk if harm to air quality. Petitioner is aware that the operation of a similar plant in another region of the country posed substantial concerns to air quality, as well as public health and safety.

8. If the proposed plant is allowed to operate, Petitioners' proximity to the site will cause Petitioners' to experience the detrimental impact to air quality caused by the plant. In addition, Petitioners will experience extreme nuisances from the plant in the form of noise, odor and property intrusion.

9. Petitioners' ownership of property in an area directly affected by the operation of the plant, and the threat to health and safety posed by this plant constitutes harm to Petitioners' substantial interests, that will be directly affected if the agency authorization of the construction permit.

10. The interests of Petitioners are the type of interests this proceeding is designed to protect, *Agrico Chemical Co. v. Department of Environmental Regulation*, 406 So.2d 478 (Fla. 2d DCA 1981), reh. denied, 415 So.2d 1359 (Fla. 1982).

11. Petitioners expressly dispute all facts and evidence put forth by the applicant purporting to establish that no adverse impact to the air quality will result from the operation of the proposed

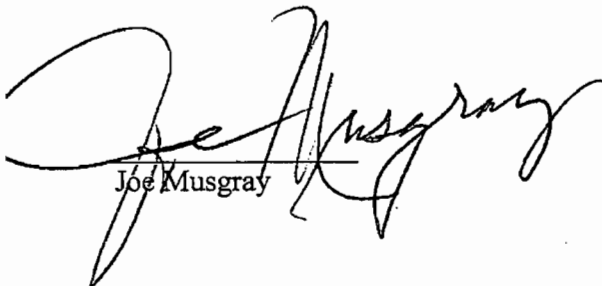
plant.

12. Petitioners assert that the application in this proceeding should be denied because it does not support a conclusion that the proposed plant will not be adverse to this community's air quality, as set provided in applicable law.

13. Petitioners therefore request that a formal hearing be scheduled to contest the evidence put forth by the applicant, and that at the conclusion of that hearing that the application for an air permit be denied.

Dated this 15th day of November, 2008.


Barbara Musgray


Joe Musgray

Gibson, Victoria

From: Gibson, Victoria
Sent: Wednesday, November 26, 2008 10:23 AM
To: Baker, Mike
Subject: From Vickie

Legal Actions

- **BG&E**
 - BG&E's second request for extension of time to file petition [PDF - size 78kb] **November 18, 2008**
 - BG&E's request for extension of time to file petition for administrative proceedings [PDF - size 150kb] **November 7, 2008**
 - Order granting extension of time to BG&E to file petition [PDF - size 51kb] **November 14, 2008**
- **Anita Franklin**
 - Anita Franklin's petition for an administrative hearing [PDF - size 135kb] **November 17, 2008**
 - Petition dismissal with leave to amend-Franklin [PDF - size 78kb] **November 20, 2008**
- **Rainey Gibson**
 - Rainey Gibson's petition for an administrative hearing [PDF - size 136kb] **November 17, 2008**
 - Petition dismissal with leave to amend-Gibson [PDF - size 78kb] **November 20, 2008**
- **Bob Fulford**
 - Bob Fulford's petition for an administrative hearing [PDF - size 134kb] **November 17, 2008**
 - Petition dismissal with leave to amend-Fulford [PDF - size 253kb] **November 20, 2008**
- **Willie Dupree**
 - Willie Dupree's petition for an administrative hearing [PDF - size 134kb] **November 17, 2008**
 - Petition dismissal with leave to amend-Dupree [PDF - size 78kb] **?????? -- need to have the dismissal loaded to the page** *(correctly attached - date 11/20/08)*
- **Erwin Jackson**
 - Erwin Jackson's petition for an administrative hearing [PDF - size 134kb] **November 17, 2008**
 - Petition dismissal with leave to amend-Jackson [PDF - size 78kb] **November 20, 2008**
- **Gerald Losey**

- [Gerald Losey's petition for an administrative hearing \[PDF - size 184kb\]](#) **November 17, 2008**
- [Petition dismissal with leave to amend-Losey \[PDF - size 78kb\]](#) **November 20, 2008**
- **Regina and Jesse Lee Harden**
 - [Regina and Jesse Lee Harden's petition for an administrative hearing \[PDF - size 134kb\]](#) **November 17, 2008**
 - [Petition dismissal with leave to amend-Harden \[PDF - size 78kb\]](#) **November 20, 2008**
- **Barbara and Joe Musgray**
 - [Barbara and Joe Musgray's petition for an administrative hearing \[PDF - size 140kb\]](#) **November 17, 2008**
 - [Petition dismissal with leave to amend-Musgray \[PDF - size 78kb\]](#) **November 20, 2008**
- **Spencer Rahni**
 - [Spencer Rahni's request for extension of time to file petition \[PDF - size 184kb\]](#) **November 17, 2008**
- **Reverend Roger Wells**
 - [Reverend Roger Wells's request for extension of time to file petition \[PDF - size 552kb\]](#) **November 17, 2008**

Anita and Morris Davis

- [Anita and Morris Davis's petition for an administrative hearing \[PDF - size 120kb\]](#) **November 12, 2008**
- [Petition dismissal with leave to amend-Davis \[PDF - size 180kb\]](#) **November 20, 2008**

Citizen John Gibby

- [Citizen John Gibby's petition for administrative hearing \[PDF - size 287kb\]](#) **November 10, 2008**
- [Denial of time extension to submit comments-Gibby \[PDF - size 60kb\]](#) **November 20, 2008**
- [Petition dismissal with leave to amend-Gibby \[PDF - size 78kb\]](#) **November 20, 2008**

Commissioner Proctor

- [Commissioner Proctor's petition for an administrative hearing \[PDF - size 129kb\]](#) **November 7, 2008**
- [Request for Administrative Law Judge \[PDF - size 298kb\]](#) **November 25, 2008**
- [Notice of Pending Related Cases \[PDF - size 50kb\]](#) **November 25, 2008**

Vickie

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

Gibson, Victoria

From: Gibson, Victoria
Sent: Wednesday, November 26, 2008 10:02 AM
To: Baker, Mike
Subject: From Vickie -- BGE page

Hi,

There is a problem under the legal actions.....then under Willie Dupree. The petition dismissal is not there as the request for a hearing is posted in both sites.

Vickie

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

*Corrected
by Mike w/ proper form
date is 11/20*

Gibson, Victoria

From: Vielhauer, Trina
Sent: Wednesday, November 26, 2008 9:22 AM
To: Baker, Mike
Cc: Gibson, Victoria; Livingston, Sylvia
Subject: RE: Web page for Waste-to-Energy and Biomass Combustion > Biomass Gas and Electric (BG&E) Tallahassee Renewable Energy Center, Updated 11/25/08

Follow Up Flag: Follow up
Flag Status: Red

Ok. Thanks. And if you need to shorten the titles, I think you could call them "Petition for Extension" or "Petition for Hearing" (if they filed for a hearing). I can have Vickie or Sylvia help you with the dates if you'd like.

Vickie/Sylvia,

This is on the BGE page and trying to add the dates the petitions/extensions were filed. If Mike has time- could you help him with the dates (I think do them all the date OGC received if there's such a stamp on there and the date the orders from OGC were clerked).

THANKS!

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

From: Baker, Mike
Sent: Wed 11/26/2008 8:39 AM
To: Vielhauer, Trina
Cc:
Subject: RE: Web page for Waste-to-Energy and Biomass Combustion > Biomass Gas and Electric (BG&E) Tallahassee Renewable Energy Center, Updated 11/25/08

Hi Trina,

I can definitely create some kind of separation for each petition set. The dates might be harder to acquire. Assuming things don't get busy today I can open them up and look.

From: Vielhauer, Trina
Sent: Wednesday, November 26, 2008 8:14 AM
To: Baker, Mike
Subject: Fw: Web page for Waste-to-Energy and Biomass Combustion > Biomass Gas and Electric (BG&E) Tallahassee Renewable Energy Center, Updated 11/25/08
Importance: High

Think you could add dates and maybe a small space between each person's petition and response (keep those together) then a space before next person?
Trina Vielhauer

Sent from my BlackBerry Wireless Handheld

11/26/2008

From: John Gibby
To: Moore, Ronni
Cc: Vielhauer, Trina; Linero, Alvaro; John Gibby
Sent: Tue Nov 25 22:17:18 2008
Subject: RE: Web page for Waste-to-Energy and Biomass Combustion > Biomass Gas and Electric (BG&E)
Tallahassee Renewable Energy Center, Updated 11/25/08
November 25, 2008

Via E-Mail

Ronda L. Moore
Assistant General Counsel
Florida Department of Environmental Protection
3900 Commonwealth Blvd., MS 35
Tallahassee, FL 32399-3000
Phone: 850.245.2193
Fax: 850.245.2302
ronni.moore@dep.state.fl.us

RE: Web page for Waste-to-Energy and Biomass Combustion > Biomass Gas and Electric (BG&E) Tallahassee Renewable Energy Center, Updated 11/25/08

Dear Ms. Moore,

I would like to **applaud** the FDEP for providing the information on line for the BG&E project.
It has been very helpful.

Due to the voluminous amount of information that has been published on the site, the information has been **regularly regrouped** in an attempt to improve the available of data to the public.

However, it is now becoming difficult to keep up with additions since the format of the page is also changed.

May I suggest the following, put the date of each item at the end of the file on the web page.

Here is an example of the problem. On the web page I see the following items:

BG&E's request for extension of time to file petition for administrative proceedings

Order granting extension of time to BG&E to file petition

BG&E's second request for extension of time to file petition

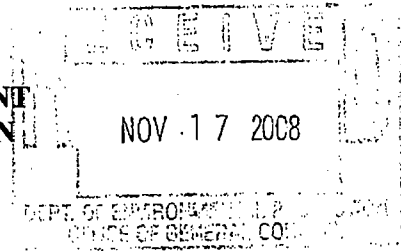
I cannot tell what the "order" is referring to unless I down-load the document.

Again, thank you for your response.

John Gibby
4887 Gum Road
Tallahassee, FL 32304

cc via electronic mail:
Trina Vielhauer
Al Linero

**BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION**



**In the Matter of an
Application for Air Construction Permit by:**

**Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane , Suite 440
Atlanta, Ga. 30092**

**Tallahassee Renewable Energy Center
Air Permit No. 0730109-001-AC
Leon County, Florida**

REQUEST FOR EXTENSION OF TIME

I, John Gibby of 4887 Gum Road Tallahassee Florida, hereby requests, pursuant to Florida Statutes, Administrative Code and Rules, an extension of time to and including December 2, 2008, to submit written comment in the above-styled matter. As good cause for granting this request, John Gibby states the following:

1. On or about October 27, 2008, John Gibby received from the Department of Environmental Protection (Department) a Technical Evaluation and Preliminary Determination, a Proposed Draft Permit, and a written Notice of Intent to Issue Air Permit (Permit No. 0730109-001-AC) for the Tallahassee Renewable Energy Center located in Leon County, Florida.
2. The Proposed Draft permit and Technical Evaluation and Preliminary Determination contain several provisions that warrant clarification or correction.
3. On or about November 7, 2008, The Florida Department of Environmental Protection received a request for extension of time from the applicant, Biomass Gas and Electric.
4. On or about November 7, 2008, The Florida Department of Environmental forwarded John Gibby's questions to the applicant Biomass Gas and Electric.

5. On or about November 14, 2008, the applicant, Biomass Gas and Electric notified John Gibby that the requested information will be received no later than the close of business Monday November 17, 2008.

WHEREFORE, JOHN GIBBY respectfully requests that the time to submit written comments with regard to the above-referenced Technical Evaluation, Preliminary Determination, Proposed Draft Permit, and a written Notice of Intent to Issue Air Permit (Permit No. 0730109-001-AC) for the Tallahassee Renewable Energy Center located in Leon County, Florida be formally extended to and including December 2, 2008. If the Department denies this request, John Gibby requests opportunity to submit written comments within 10 days of such denial,

Respectfully submitted this 17th day of November, 2008.

Concerned Citizen

John Gibby 11/17/08
John Gibby

Certificate of Service

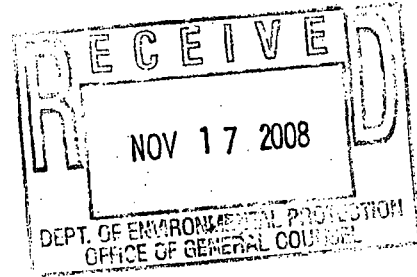
I HEREBY CERTIFY that a copy of the foregoing has been furnished to the following by U.S. Mail on

this 17th day of November, 2008:

Mr. Glenn Farris, President and CEO
Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane, Suite 440
Atlanta, Georgia 30092

Dated this 17 day of November, 2008.


Signature



November 10, 2008

Ms. Lea Crandall, Agency Clerk
FDEP Office of General Counsel
3900 Commonwealth Blvd MS 35
Tallahassee, FL 32399-3000

Re: DEP File No. 0730109-001-AC
Biomass Gasification Combined Cycle Unit
Biomass Gas and Electric of Tallahassee, LLC

Dear Ms. Crandall,

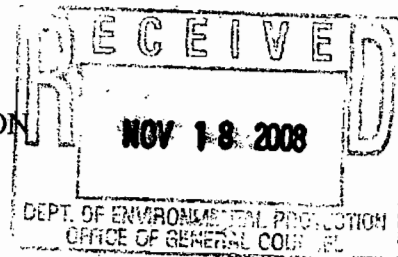
I am a person whose substantial interests are affected by this proposed permitting decision and am requesting an EXTENSION OF TIME of 90 days to file a petition for an administrative hearing in accordance with Sections 120.569 and 120.57, F.S., so that I may compile the material facts required for the petition.

Sincerely,

Rev. Roger Wells (Rev. Roger Wells)
Providence Neighborhood Assn.
1320 Levy Ave.
Talla., FL 32310

c: Mr. Glenn Farris
Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane, Suite 440
Atlanta, GA 30092

THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION



In the Matter of an
Application for Air Construction Permit by:

Biomass Gas and Electric of Tallahassee, LLC
3500 Parkway Lane, Suite 440
Atlanta, Georgia 30092

Tallahassee Renewable Energy Center
Leon County, Florida
OGC No. 08-2673
Air Permit No. 0730109-001-AC

REQUEST FOR SECOND EXTENSION OF TIME

By and through undersigned counsel, Biomass Gas and Electric of Tallahassee, LLC (BG&E) hereby requests, pursuant to Florida Administrative Code Rule 62-110.106(4), a second extension of time to and including November 25, 2008, in which to file a Petition for Administrative Proceedings in the above-styled matter. As good cause for granting this request, BG&E states the following:

1. On or about October 27, 2008, BG&E received from the Department of Environmental Protection (Department) a Technical Evaluation and Preliminary Determination, a Proposed Draft Permit, and a Written Notice of Intent to Issue Air Permit (Permit No. 0730109-001-AC) for the Tallahassee Renewable Energy Center located in Leon County, Florida.
2. On November 7, 2008, BG&E, by and through undersigned counsel, timely filed a Request for Extension of Time with the Department, requesting an extension of time to and including November 18, 2008, in which to file a Petition for Administrative Proceeding.

3. The Department granted BG&E's requested extension of time by order dated November 14, 2008. The order provided that BG&E had until November 18, 2008, to file a petition. The Department sent a copy of the order via facsimile to CF's representative (undersigned counsel) on November 14, 2008.

4. While the order granting the first requested extension stated that no further extensions would be granted, BG&E and the Department have agreed that a request for a second extension may be filed.

5. The Proposed Draft Permit contains several provisions that warrant clarification or correction.

6. Representatives of BG&E have corresponded and will continue to correspond with staff of the Department's Bureau of Air Regulation in an effort to resolve all issues.

7. This request is filed simply as a protective measure to avoid waiver of BG&E's right to file a petition. Grant of this request will not prejudice either party, but will further their mutual interest and likely avoid the need to file a petition.

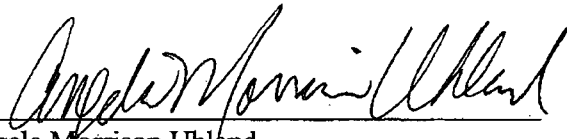
8. Counsel for BG&E contacted Ronni Moore with the Department's Office of General Counsel regarding this request, and the Department has no objection.

WHEREFORE, BG&E respectfully requests that the time for filing a Petition for Administrative Hearing with regard to the above-referenced Technical Evaluation and Preliminary Determination, Proposed Draft Permit, and Written Notice of Intent to Issue Air Permit (Permit No. 0730109-001-AC) be formally extended to and including November 25, 2008. If the Department

denies this request, BG&E requests the opportunity to file a Petition for Administrative Proceedings within 7 days of such denial.

Respectfully submitted this 18th day of November, 2008.

HOPPING GREEN & SAMS, P.A.



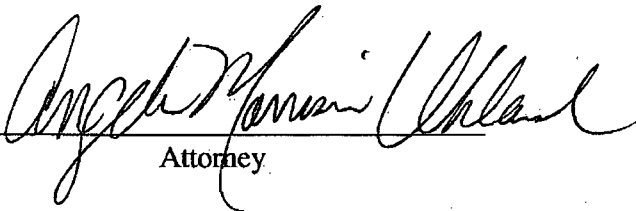
Angela Morrison Umland
Fla. Bar No. 0855766
Douglas S. Roberts
Fla. Bar No. 0559466
Gary P. Sams
Fla. Bar No. 0134594
P.O. Box 6526
Tallahassee, FL 32314
(850) 222-7500
(850) 521-2758 fax
auhland@hgslaw.com

Attorneys for BIOMASS GAS AND ELECTRIC
OF TALLAHASSEE, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to the following by
U.S. Mail on this 18th day of November, 2008:

Ronni Moore
Office of General Counsel
Department of Environmental Protection
3900 Commonwealth Blvd.
Tallahassee, FL 32399-2600



Attorney

289830

**BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION**

BILL PROCTER, LEON COUNTY
COMMISSIONER, 1ST DISTRICT
OF LEON COUNTY, FLORIDA,

Petitioner

Case No.
FDEP File No. 0730109-0001-AC

v.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Respondent

**PETITION FOR ADMINISTRATIVE HEARING
PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES**

Petitioner, BILL PROCTER, COUNTY COMMISSIONER FOR THE 1ST DISTRICT FOR LEON COUNTY OF FLORIDA, hereby petitions for an administrative hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, challenging Respondent, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S ("FDEP"), approval of Biomass Gas & Electric of Tallahassee, LLC's ("BG&E") application for an air pollution construction permit which authorizes the construction of a nominal 42 megawatts biomass-fed integrated gasification and combined cycle power plant called the Tallahassee Renewable Energy Center. In support thereof, CONCERNED CITIZEN states as follows:

The Parties and Notice of Agency Action

1. The name and address of the affected agency is the FDEP, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000. The telephone number of the Agency is (850) 245-2118.

2. The Agency's file or identification number is 0730109-0001-AC.
3. The name and address of the Petitioner is Bill Proctor, County Commissioner for the 1st District of Leon County, Florida, 301 S. Monroe Street, Room 202, Tallahassee, Florida 32301. The telephone number is (850) 606-5361.
4. FDEP issued a written notice of intent to issue draft air Construction Permit on October 27, 2008. The Petitioner received FDEP's written notice of intent to issue a Draft Air Construction Permit by electronic mail on or about October 28, 2008, pursuant to Florida Statute §120.60(3). By operation of law, this Petition is filed within a timely manner.

The Petitioner's Substantial Interests are Affected by this Determination

5. The Petitioner, Bill Proctor, believes that the health, well being, and quality of life of himself, his family, and citizens of Leon County in District 1, will be significantly damaged by the air emissions from the applicants proposed facility.
6. By approval of the air construction permit, BG&E's permitted facility will emit air pollutants that will have an immediate and real impact on the Petitioner's substantial interest.
7. For a party to have standing to challenge proposed agency action pursuant to Sections 120.569 and 120.57(1), Florida Statutes, the party must demonstrate its substantial interest are determined or affected by the proposed agency action. This requirement is met when a party demonstrates that, as a result of the agency action, it will suffer an injury in fact, of sufficient immediacy to entitle it to an administrative proceeding on the action and the substantial injury that would result from the agency action is of the type or nature the administrative proceeding is designed to protect. Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d. DCA 1981).

8. As a resident of Leon County and working in the vicinity of the proposed facility site, the Petitioner's substantial interest is being determined in this proceeding. Further, the substantial injury that will result by the presence in the outdoor atmosphere of the state of any one or more substances or pollutants in quantities which are or may be harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation, §62.210.200(12), F.A.C., such injury that this administrative proceeding is designed to protect. Therefore, the Petitioner has standing to challenge FDEP's decision to approve BG&E's application for an air pollution construction permit.

Disputed Issues of Material Fact

9. The Petitioner disputes the determination by FDEP that the applicant, BG&E, has shown that the installation is provided or equipped with pollution control facilities that will abate or prevent pollution to the degree that will comply with the standards or rules adopted by the department in accordance with Florida Statute § 403.087.

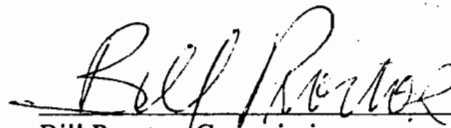
10. Petitioner failed to provide reasonable assurance that operation of the proposed facility will not adversely impact air quality and failed provide a reasonable assurance that the project will not cause or contribute to a violation of a state or federal ambient air quality standard.

Ultimate Facts Warranting Reversal of Approval of the Permit

11. The Petitioner contends that the applicant has not adequately demonstrated or proven that the proposed project will not adversely impact or exceed air quality standards set forth in Florida Statutes § 403.087.

DATED this 7 day of November, 2008.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Bill Proctor", is written over a horizontal line.

Bill Proctor, Commissioner
District 1, Leon County, Florida

RECEIVED

APR 17 2008

DIVISION OF AIR
RESOURCES MANAGEMENT

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BILL PROCTOR, LEON COUNTY
COMMISSIONER, FIRST DISTRICT,
LEON COUNTY, JOHN GIBBY,
RAINEY GIBSON, ERWIN JACKSON,
and BOB FULFORD,

Petitioners,

vs.

OGC Case No. 08-2674

BIOMASS GAS AND ELECTRIC OF
TALLAHASSEE, LLC, and DEPARTMENT
OF ENVIRONMENTAL
PROTECTION,

Respondents.

BIOMASS GAS AND ELECTRIC OF
TALLAHASSEE, LLC,

Petitioner,

vs.

DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Respondent.

ORDER CLOSING FILE

On October 24, 2008, the Department of Environmental Protection (Department) issued its intent to issue an air construction permit, permit number 0730109-001-AC, to Biomass Gas and Electric of Tallahassee, LLC (BG&E) to construct a biomass-fed integrated gasification and combined cycle alternative energy facility in Leon County, Florida. The Department received sufficient petitions for formal administrative hearing from Bill Proctor, John Gibby, Rainey

Gibson, Erwin Jackson, Bob Fulford, and BG&E, which were forwarded to the Division of Administrative Hearings (DOAH) and a hearing was set to begin on June 15, 2009.

On February 2, 2009, BG&E withdrew its permit application, rendering the Department's intended action and the challenges to that action moot. On February 3, 2009, the Department filed a motion asking DOAH to relinquish jurisdiction to the Department so that it could close its file. On February 4, 2009, DOAH issued an Order Closing File and relinquished jurisdiction to the Department. There being no further matters to consider,

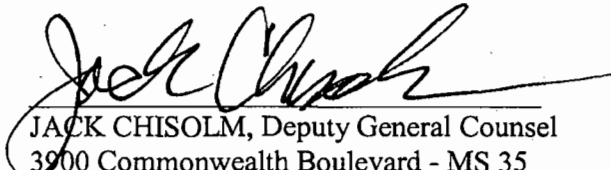
IT IS ORDERED:

Department case number 08-2674 is CLOSED.

Any party to this order has the right to seek judicial review of the order under section 120.68 of the Florida Statutes by the filing of a notice of appeal under rules 9.110 and 9.190 of the Florida Rules of Appellate Procedure with the clerk of the Department in the Office of General Counsel, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate district court of appeal. The notice of appeal must be filed within thirty days from the date this order is filed with the clerk of the Department.

DONE AND ORDERED this 6th day of February, 2009, 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, Order Closing File, was furnished in the manner noted this 10th day of February, 2009, to:

VIA U.S. MAIL:

Rainey Gibson
1511 Coleman Street
Tallahassee, FL 32310

VIA ELECTRONIC MAIL:

Bill Proctor, County Commissioner
301 S. Monroe Street, Room 202
Tallahassee, FL 32301

proctorb@leoncountyfl.gov

John Gibby
4887 Gum Road
Tallahassee, FL 32304

gibbyj@earthlink.net

Erwin Jackson
1341 Jackson Bluff Road
Tallahassee, FL 32304

erwin@jacksonpropertiesinc.com

Bob Fulford
231 Westridge Drive
Tallahassee, FL 32304

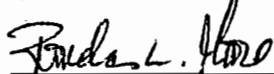
bobfulford@nettally.com

Angela Morrison Uhland
123 South Calhoun Street
Tallahassee, FL 32314

AUhland@hgslaw.com

*Attorney for Biomass Gas and
Electric of Tallahassee, LLC*

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



RONDA L. MOORE, Assistant General Counsel
3900 Commonwealth Blvd., MS 35
Tallahassee, FL 32399-3000
Ph: (850) 245-2193 Fax: (850) 245-2302
Florida Bar No. 0676411

Gibson, Victoria

From: Vielhauer, Trina
Sent: Friday, February 06, 2009 1:52 PM
To: Gibson, Victoria
Subject: FW: Order Closing File OGC # 08-2674
Attachments: order closing file.pdf

From: Moore, Ronni
Sent: Friday, February 06, 2009 1:33 PM
To: Vielhauer, Trina; Linero, Alvaro; Read, David
Cc: Swango, Katie
Subject: FW: Order Closing File OGC # 08-2674

Afternoon! Attached is our Order Closing File for the BG&E case. If you have any questions, please let me know.

Thanks!
Ronni

Ronda L. Moore
Assistant General Counsel

 Please consider the environment before printing this email.

From: Swango, Katie
Sent: Friday, February 06, 2009 12:38 PM
To: proctorb@leoncountyfl.gov; gibbyj@earthlink.net; erwin@jacksonpropertiesinc.com; bobfulford@nettally.com; Auhland@hgslaw.com
Cc: Moore, Ronni
Subject: Order Closing File OGC # 08-2674

Please find attached the PDF version of the Order closing file for the above mentioned case. Please let me know if you have a problem opening or viewing the attachment and I will send you another copy as soon as possible.

Thanks

Katie Marie Swango
Administrative Assistant for
Rebecca Robinette, Ronni Moore, & Pat Comer

FLORIDA DISCOUNT CARD: More than 3,000 retail pharmacies in Florida are now a part of the Florida Discount Drug Card program. See www.FloridaDiscountDrugCard.com for more info or call toll-free, 1-866-341-8894.

Florida Department of Environmental Protection
Cash Receiving Application (CRA)
Transmittal Sheet
 Printed: 2/9/2009 11:41:43 AM - Page 1

Transmittal Number: 52881 Collection Point: 3755
 Total: \$20.70
 Number of Items: 1
 Date Created: 09-FEB-2009
 Deposit/Verified Date:

WALKER E
 Lister

WALKER E
 Witness

Received By
 Accounting & Budgeting

DEPOSITED

Remittance Number	Received Date	PNR/ DEP DDN	Receipt Number	Check Number	Name	Remittance Amount	Payment Number	Payment Amount	Reference Account
814244	06-FEB-2009		653663	2571	BERGER SINGERMAN PA PROFESSIONAL AS	\$20.70	923759	\$20.70	

Total To Be Deposited: \$20.70

NOT DEPOSITED

Remittance Number	Received Date	PNR/ DEP DDN	Receipt Number	Check Number	Name	Remittance Amount	Payment Number	Payment Amount	Reference Account
						Total Not Deposited: \$0.00			

BERGER SINGERMAN PA 09/1995
PROFESSIONAL ASSOCIATION
TALLAHASSEE OPERATING ACCOUNT
315 S CALHOUN ST SUITE 712
TALLAHASSEE, FL 32301

2571
63-215/631

DATE 2/4/09

STYLE XPP

PAY TO THE ORDER OF

Florida Dept. of Env. Protection
Twenty and 70/100

\$ 20.70

DOLLARS

 Security Features Details on Back



ACH RT 061000104

[Signature]

FOR

14089-0001

MP

~~110125T 11 1031005 40780005 7512~~

**BEFORE THE FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION**

BILL PROCTER, LEON COUNTY
COMMISSIONER, 1ST DISTRICT
OF LEON COUNTY, FLORIDA,

Petitioner

Case No.
FDEP File No. 0730109-0001-AC

v.

FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Respondent

**PETITION FOR ADMINISTRATIVE HEARING
PURSUANT TO SECTIONS 120.569 AND 120.57(1), FLORIDA STATUTES**

Petitioner, BILL PROCTER, COUNTY COMMISSIONER FOR THE 1ST DISTRICT FOR LEON COUNTY OF FLORIDA, hereby petitions for an administrative hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes, challenging Respondent, FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION'S ("FDEP"), approval of Biomass Gas & Electric of Tallahassee, LLC's ("BG&E") application for an air pollution construction permit which authorizes the construction of a nominal 42 megawatts biomass-fed integrated gasification and combined cycle power plant called the Tallahassee Renewable Energy Center. In support thereof, CONCERNED CITIZEN states as follows:

The Parties and Notice of Agency Action

1. The name and address of the affected agency is the FDEP, 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000. The telephone number of the Agency is (850) 245-2118.

2. The Agency's file or identification number is 0730109-0001-AC.

3. The name and address of the Petitioner is Bill Proctor, County Commissioner for the 1st District of Leon County, Florida, 301 S. Monroe Street, Room 202, Tallahassee, Florida 32301. The telephone number is (850) 606-5361.

4. FDEP issued a written notice of intent to issue draft air Construction Permit on October 27, 2008. The Petitioner received FDEP's written notice of intent to issue a Draft Air Construction Permit by electronic mail on or about October 28, 2008, pursuant to Florida Statute §120.60(3). By operation of law, this Petition is filed within a timely manner.

The Petitioner's Substantial Interests are Affected by this Determination

5. The Petitioner, Bill Proctor, believes that the health, well being, and quality of life of himself, his family, and citizens of Leon County in District 1, will be significantly damaged by the air emissions from the applicants proposed facility.

6. By approval of the air construction permit, BG&E's permitted facility will emit air pollutants that will have an immediate and real impact on the Petitioner's substantial interest.

7. For a party to have standing to challenge proposed agency action pursuant to Sections 120.569 and 120.57(1), Florida Statutes, the party must demonstrate its substantial interest are determined or affected by the proposed agency action. This requirement is met when a party demonstrates that, as a result of the agency action, it will suffer an injury in fact, of sufficient immediacy to entitle it to an administrative proceeding on the action and the substantial injury that would result from the agency action is of the type or nature the administrative proceeding is designed to protect. Agrico Chemical Co. v. Department of Environmental Regulation, 406 So.2d 478 (Fla. 2d. DCA 1981).

8. As a resident of Leon County and working in the vicinity of the proposed facility site, the Petitioner's substantial interest is being determined in this proceeding. Further, the substantial injury that will result by the presence in the outdoor atmosphere of the state of any one or more substances or pollutants in quantities which are or may be harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation, §62.210.200(12), F.A.C., such injury that this administrative proceeding is designed to protect. Therefore, the Petitioner has standing to challenge FDEP's decision to approve BG&E's application for an air pollution construction permit.

Disputed Issues of Material Fact

9. The Petitioner disputes the determination by FDEP that the applicant, BG&E, has shown that the installation is provided or equipped with pollution control facilities that will abate or prevent pollution to the degree that will comply with the standards or rules adopted by the department in accordance with Florida Statute § 403.087.

10. Petitioner failed to provide reasonable assurance that operation of the proposed facility will not adversely impact air quality and failed provide a reasonable assurance that the project will not cause or contribute to a violation of a state or federal ambient air quality standard.

Ultimate Facts Warranting Reversal of Approval of the Permit

11. The Petitioner contends that the applicant has not adequately demonstrated or proven that the proposed project will not adversely impact or exceed air quality standards set forth in Florida Statutes § 403.087.

12. The Petitioner contends that the applicant has not adequately demonstrated or proven that the proposed project has sufficient safeguards in place to ensure that un-permitted containments do not enter into the fuel source supply.

13. The Petitioner contends that the applicant has not adequately demonstrated or proven that the proposed project meets the requirements that PSD regulations do not apply.

Statutes and Rules requiring Reversal of the Agency Actions

14. The Petitioner contends the following require reversal or modification of the Agency's action as follows:

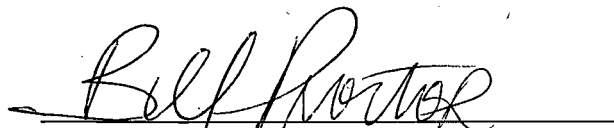
- a. The applicant has not proceeded in accordance with Florida Statutes Chapter 403; specifically Part V entitled Environmental Regulations.
- b. The applicant has not proceeded in accordance with Florida Statute §403.087.
- c. The applicant has not proceeded in accordance with Chapters 62-4, 62-210, and 62-212 of the Florida Administrative Code.

WHEREFORE, based on the foregoing, Petitioner, Bill Proctor, respectfully requests that:

- a. This Petition be granted and referred to the Division of Administrative Hearings to conduct a Formal Administrative Hearing pursuant to Sections 120.569 and 120.57(1), Florida Statutes;
- b. The Administrative Law Judge, after the hearing, issue a Recommended Order reversing FDEP's determinations and approval of BG&E's application for an air construction permit;
- c. FDEP thereafter issue a Final Order consistent with the Recommended Order; and
- d. Such other relief as may be appropriately be granted to the Petitioner.

DATED this 7 day of November, 2008.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bill Proctor", is written over a solid horizontal line.

Bill Proctor, Commissioner
District 1, Leon County, Florida

RECEIVED

NOV 07 2008

**DIVISION OF AIR
RESOURCES MANAGEMENT**