

BRYAN CAVE

ST. LOUIS, MISSOURI
LOS ANGELES, CALIFORNIA
NEW YORK, NEW YORK
PHOENIX, ARIZONA
KANSAS CITY, MISSOURI

700 THIRTEENTH STREET, N.W.
WASHINGTON, D.C. 20005-3960
(202) 508-6000
FACSIMILE: (202) 508-6200

IRVINE, CALIFORNIA
SANTA MONICA, CALIFORNIA
OVERLAND PARK, KANSAS
LONDON, ENGLAND
RIYADH, SAUDI ARABIA
FRANKFURT AM MAIN, GERMANY

ROBERT F. VAN VOORHEES
DIRECT DIAL NUMBER
(202) 508-6014

March 23, 1995

BY FEDERAL EXPRESS

Mr. A. A. Linero, P.E.
Bureau of Air Regulation
Florida Department of
Environmental Protection
2600 Blair Stone Road
Twin Towers Office Building
Tallahassee, FL 32399-2400

RECEIVED

MAR 24 1995

Bureau of
Air Regulation

**Re: Comments on Proposed PSD Construction Permit
Modification, Technical Evaluation and Preliminary
Determination, and BACT Determination for
United States Sugar Corp. -- Clewiston Boiler No. 4**

Dear Mr. Linero:

Thank you for providing us the opportunity to review the proposed PSD construction permit modification, Technical Evaluation and Preliminary Determination, and BACT Determination for U.S. Sugar Corporation's Clewiston Boiler No. 4 (AC26-248809). Enclosed for your consideration are comments on the proposed documents. We have requested a number of revisions and have tried in each case to explain the reasons for our comments.

Since the process to revise the CO emissions factor for Boiler No. 4 was first initiated, we understood that the purpose of modifying Boiler No. 4's construction permit was simply to have the permit reflect actual CO emissions and not to impose new requirements in other areas. The Department's description of the modification confirms this understanding. Our review of the proposed permit, however, disclosed several new requirements that appear to be unrelated to the change in permitted CO emissions or that otherwise seem to depart from our mutual understanding of the intent of the modification process. In some instances, language added by the Department to the proposed construction permit appears to have the effect of imposing new requirements, although this apparently was not the Department's intent. Consistent with our mutual understanding, we request that these new requirements be taken out of the final construction permit modification.

BRYAN CAVE

Mr. A. A. Linero, P.E.
March 23, 1995
Page 2

We also would like to suggest a different approach for the timing of the renewal and issuance of Boiler No. 4's current operation permit. U.S. Sugar timely submitted an application to renew the operation permit for Boiler No. 4 on December 15, 1992 and this application has been pending for several years. Due to the need to modify Boiler No. 4's construction permit to correct the CO emission factor, the Department has not yet taken final action on the renewal application. Pursuant to Rule 62-4.090, F.A.C., U.S. Sugar continues to operate Boiler No. 4 under the terms of Air Operation Permit No. A026-144701.

Instead of continuing to operate Boiler No. 4 under Air Operation Permit No. A026-144701 until 1996 as is presently contemplated by the proposed construction permit modification, U.S. Sugar requests that the Department issue a renewed operation permit immediately after finalizing the construction permit modification. By simply incorporating the requirements of the modified construction permit into the renewed operation permit, the Department will be able to expedite this process and take final action on the pending application.

We hope that adequate explanations have been provided for all of the comments presented. Please call me (202-508-6014) if you have any questions or need any clarification of the comments. We look forward to working with you to finalize this permit.

Sincerely,



Robert F. Van Voorhees
Counsel to U.S. Sugar Corporation

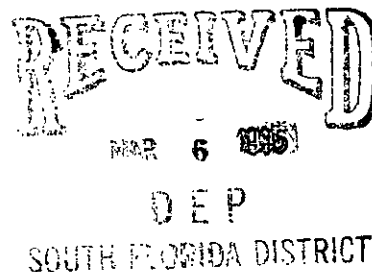
Enclosures

cc: Willard Hanks, DEP
David Knowles, DEP South District
Jewell Harper, EPA
John Bunyak, NPS
Peter Briggs, U.S. Sugar
Don Griffin, U.S. Sugar
David Buff, KBN

UNITED STATES SUGAR CORPORATION

Post Office Drawer 1207 Clewiston, Florida 33440
Telephone: (813) 983-8121

March 3, 1995



Mr. David Knowles, P.E.
Engineer
Florida Department of Environmental Protection
South District
2295 Victoria Avenue - Suite 364
Fort Myers, Fl. 33901

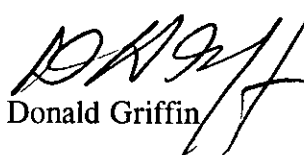
RE: U. S. Sugar Corporation
Clewiston Mill - Boiler No. 4
DEP File No. AC26-248809
PSD-FL-217 - Hendry County

Dear Mr. Knowles:

We are enclosing Affidavit of Publication certifying that the Notice of Intent to Issue Permit included with your notice dated February 7, 1995 was duly published in the legal section of the March 1, 1995 issue of the Clewiston News.

Very truly yours,

UNITED STATES SUGAR CORPORATION


Donald Griffin

DG:jt
Enclosure

cc: Mr. M. T. Brinson
Mr. Bert Starrett
Mr. Peter Briggs

cc: W. Hanks
C. Holladay
D. Knowles, S District
J. Bnyak, NPS
J. Harper, EPA

The Clewiston News

Clewiston, Florida

Published Weekly

AFFIDAVIT OF PUBLICATION

State of Florida
County of Hendry

Before the undersigned authority, personally appeared Richard Hitt, who on oath says he is the Publisher of the Clewiston News, a weekly newspaper published at Clewiston in Hendry County, Florida, that the attached copy of advertisement, being a

notice

in the matter of intent

in the

court, was published in

said newspaper in the issues of

March 1, 1995

Affiant further says that the said Clewiston News is a newspaper published at Clewiston, in said Hendry County, continuously published in said Hendry County, Florida each week, and has been entered as a second class mail matter at the post office in Clewiston, in said Hendry County, Florida, for a period of one year next preceding the first publication says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

[Signature of Richard Hitt]

Sworn to and subscribed before me this 1st day

of March

A.D. 19 95

[Signature of B K Christiansen]

Notary Public

OFFICIAL NOTARY SEAL
B K CHRISTIANSEN
NOTARY PUBLIC STATE OF FLORIDA
COMMISSION NO. CC289391
MY COMMISSION EXPIRES JUNE 27, 1997

Lyons Printing

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

NOTICE OF INTENT TO ISSUE PERMIT
AC 26-248809
PSD-FL-217

The Department of Environmental Protection (Department) gives notice of its intent to issue a construction permit, No. AC 26-248809 / PSD-FL-217, to the United States Sugar Corporation for a modification / increase in the potential / allowable carbon monoxide (CO) emission limit for the existing bagasse / fuel oil fired Boiler No. 4. The boiler is located at the existing sugar mill in Clewiston, Hendry County, Florida. The permit will authorize an increase in the allowable emission rate of CO from 339.1 TPY to 9,818 TPY. The boiler's operation and allowable emissions of all other air pollutants are not changed by this permit. However, the increase in allowable CO emissions is above the significant emission rate and subjects the proposed modification to the Prevention of Significant Deterioration new sources review regulations. The allowable CO emissions are set by a determination of Best Available Control Technology. The maximum predicted CO concentrations from all sources, including the CO emission rate increase requested in the application are: 18,160 ug/m3, 1-hour average, or 45% of the 1-hour ambient air quality standard (AAQS) of 40,000 ug/m3; and, 8,940 ug/m3, 8-hour average, or 35% of the 8-hour AAQS of 10,000 ug/m3.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative proceeding (hearing) in accordance with Section 120.57, Florida Statutes (F.S.). The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, within 14 days of publication of this notice. Petitioner shall mail a copy of the petition to the applicant at the address indicated above at the time of filing. Failure to file a petition within this time period shall constitute a waiver of any right such person may have to request an administrative determination (hearing) under Section 120.57, F.S.

The Petition shall contain the following information: (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Department Permit File Number and the county in which the project is proposed; (b) A statement of how and when each petitioner received notice of the Department's action or proposed

action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by Petitioner, if any; (e) A statement of facts which petitioner contends warrant reversal or modification of the Department's action or proposed action; (f) A statement of which rules or statutes petitioner contends require reversal or modification of the Department's action or proposed action; and (g) A statement of the relief sought by petitioner, stating precisely the action petitioner wants the Department to take with respect to the Department's action or proposed action.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the application have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 14 days of publication of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Section 120.57, F.S., and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28.5.207, Florida Administrative Code.

The application is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at:

Department of Environmental Protection
Bureau of Air Regulation,
111 S. Magnolia Drive, Suite 4
Tallahassee, Florida 32301

Department of Environmental Protection
South District
2295 Victoria Avenue, Suite 364
Ft. Myers, Florida 33901

Any person may send written comments on the proposed action to Mr. A. A. Linero at the Department of Environmental Protection, Bureau of Air Regulation, Mail Station 5505, 2600 Blair Stone Road, Tallahassee, Florida, 32399-2400. All comments received within 30 days of the publication of this notice will be considered in the Department's final determination.

Further, a public hearing can be requested by any person (s). Such request must be submitted within 30 days of this notice.

al

BRYAN CAVE

ST. LOUIS, MISSOURI
LOS ANGELES, CALIFORNIA
NEW YORK, NEW YORK
PHOENIX, ARIZONA
KANSAS CITY, MISSOURI

700 THIRTEENTH STREET, N.W.
WASHINGTON, D.C. 20005-3960
(202) 508-6000
FACSIMILE: (202) 508-6200

IRVINE, CALIFORNIA
SANTA MONICA, CALIFORNIA
OVERLAND PARK, KANSAS
LONDON, ENGLAND
RIYADH, SAUDI ARABIA
FRANKFURT AM MAIN, GERMANY

PETER H. OPPENHEIMER
DIRECT DIAL NUMBER
(202) 508-6067

RECEIVED

MAR 6 1995

Bureau of
Air Regulation

February 27, 1995

VIA FEDERAL EXPRESS

Virginia B. Wetherell, Secretary
c/o Office of General Counsel
Florida Department of Environmental
Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

Re: U.S. Sugar Corporation
Clewiston Mill Boiler No. 4
Air Construction Permit No. AC26-248809
Hendry County

Dear Secretary Wetherell:

Enclosed for filing is a Request for an Extension of
Time to File a Petition For an Administrative Hearing with
respect to the above-reference permit.

Sincerely,



Peter H. Oppenheimer

Enclosure

cc: ✓ C. H. Fancy, P.E., Chief, BAR, DEP Tallahassee
Kenneth J. Plante, Esq., General Counsel, DEP
Jefferson M. Braswell, Esq., Assistant General Counsel, DEP
Willard Hanks, DEP, Tallahassee
David Knowles, DEP, South District
Peter B. Briggs, U.S. Sugar Corporation
Don Griffin, U.S. Sugar Corporation
David A. Buff, P.E., KBN

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

U.S. SUGAR CORPORATION
CLEWISTON MILL BOILER NO. 4,
DEP PERMIT NO. AC26-248809 (PSD-FL-217)
HENDRY COUNTY

Petitioner,

vs.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Respondent.

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

On February 13, 1995, U.S. Sugar Corporation ("U.S. Sugar") received by certified mail the Department of Environmental Protection's "Intent To Issue" the above-referenced Construction Permit (the "proposed permit").

Counsel for the Petitioner is writing to request an extension of time to and including Friday, April 14, 1995 in which to file a petition for administrative proceeding regarding the proposed permit. This request is made pursuant to Florida Administrative Code Rule 62-103.070, which provides that a timely request for extension of time shall toll the running of the time period in which to file an appropriate petition. As good cause for granting the requested extension of time for filing, U.S. Sugar would show the following:

1. The proposed permit issued by the Department contains specific conditions and requirements not imposed on

this boiler by any prior operating or construction permit. For example, the proposed permit includes new operational limitations (specific condition 4), new scrubber control system operating requirements (specific conditions 6, 7 and 8), augmented particulate matter and sulfur dioxide emissions limitations (specific conditions 14 and 16), new unconfined particulate matter control requirements (specific condition 18), more stringent emission testing requirements (specific condition 23), and a number of other new or modified requirements.

2. U.S. Sugar has not yet had an opportunity to discuss these provisions with the Department and has had insufficient opportunity to assess the impact of these new requirements on its operations or to evaluate its ability to operate in compliance with the new requirements.
3. U.S. Sugar believes some of the specific conditions may benefit from revision or are in need of clarification. In addition, U.S. Sugar does not understand the factual basis for the imposition of some of the new requirements. We would like to obtain additional information from the Department in order to assess the factual support upon which the Department has relied. We hope to obtain this additional information and any necessary clarifications in discussions with the Department during the requested extension period. U.S.

Sugar has also been unable to find a regulatory basis for some of the new or modified requirements.

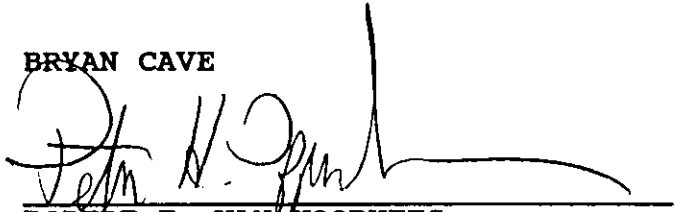
4. This request is filed as a protective measure to avoid waiver of U.S. Sugar's rights to challenge or request an administrative hearing on any provision of the proposed permit. Grant of this request will allow the parties an opportunity to complete discussion of the permit conditions of interest and achieve a mutually acceptable resolution of U.S. Sugar's concerns without the need for initiation of formal administrative proceedings.

We advised the Department's assistant general counsel, Jefferson M. Braswell, Esq., on Monday, February 27, 1995 of our intent to file this request. Accordingly, Counsel for the Petitioner respectfully requests that an extension of time be granted for the filing of a petition for administrative proceedings in regard of the Department's proposed agency action as embodied in its Intent to Issue Air Construction Permit No. AC26-248809 (PSD-FL-217) to and including Friday, April 14, 1995.

If the requested extension of time is not granted for any reason, then this pleading shall constitute a petition filed pursuant to Florida Administrative Code Rule 62-103.155 for an administrative hearing on each specific permit condition included in proposed Air Construction Permit No. AC26-248809 (PSD-FL-217) that was modified or not previously contained in either the Clewiston Boiler No. 4 operating permit (A026-144701), issued on

February 15, 1988, or in the construction permit (AC26-126965),
issued February 16, 1987.

BRYAN CAVE

A handwritten signature in cursive script, appearing to read "Peter H. Oppenheimer", written over a horizontal line.

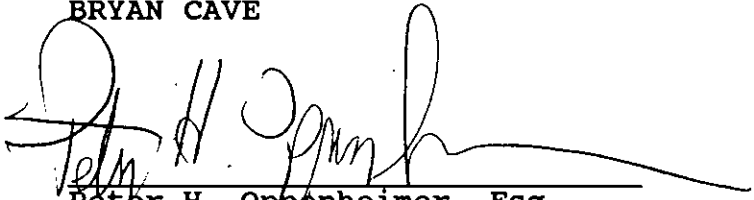
ROBERT F. VAN VOORHEES
PETER H. OPPENHEIMER
COUNSEL FOR U.S. SUGAR CORPORATION

700 13th Street, N.W., Suite 700
Washington, D.C. 20005-3960
Telephone: (202) 508-6067

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by certified U.S. mail, return receipt requested, to Jefferson M. Braswell, Esquire, 2600 Blair Stone Road, Tallahassee, FL 32399-2400, on this 27 day of February, 1995.

BRYAN CAVE



Peter H. Oppenheimer, Esq.