



United States Department of the Interior  
FISH AND WILDLIFE SERVICE



MAILING ADDRESS:  
Post Office Box 25486  
Denver Federal Center  
Denver, Colorado 80225

STREET LOCATION:  
134 Union Blvd.  
Lakewood, Colorado 80228

IN REPLY REFER TO:

RW AIR QUALITY  
MAIL STOP 60130

APR 08 1988 RECEIVED

APR 11 1988

DER-BAQM

Mr. Tom Rogers  
Bureau of Air Quality Management  
Florida Department of Environmental Regulation  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

Dear Mr. Rogers:

Thank you for the opportunity to comment on the power plant site certification application for Pasco County's proposed resource recovery facility. The proposed project is located approximately 27 km south of Chassahowitzka National Wildlife Refuge. The wilderness portion of the refuge is a class I area administered by the U.S. Fish and Wildlife Service. The applicant proposes to construct a 900 tons per day facility with expansion capability to 1200 tons per day.

Our detailed comments regarding the proposed project are enclosed. Specifically, we have commented on best available control technology, and increment consumption modeling. We are requesting lower emissions for particulate matter, sulfur dioxide, acid gases, and nitrogen oxide. In addition, we are requesting additional information on other increment consuming sources and predicted background levels of sulfur dioxide at Chassahowitzka National Wildlife Refuge to determine any impacts at the refuge. We are concerned that the modeling performed by the applicant, which may not include all increment consuming sources, indicates a 24-hour sulfur dioxide increment consumption of 4.91 micrograms per cubic meter. As you know, the maximum allowable class I 24-hour increment for sulfur dioxide is 5.0 micrograms per cubic meter. Additional sources in alignment with the Pasco County facility could contribute to a class I increment exceedance at the refuge.

If you have any questions, please call Miguel Flores, or Deborah Mangis at 303-969-2072.

Sincerely,

for

Nelson B. Kverno  
Assistant Regional Director  
Refuges and Wildlife, Region 6

Enclosure

Copied: CHF/BT  
Tom Rogers  
Pradeep Raval  
Barry Andrews } 4.12.88 (M)

Comments on Potential Air Quality Impacts of Proposed  
Pasco County Resource Recovery Facility

by

Permit Review and Technical Support Branch  
National Park Service - Air Quality Division - Denver

INTRODUCTION

Pasco County is proposing to construct and operate a resource recovery facility (RRF) in New Port Ritchey, Florida, approximately 27 km south of Chassahowitzka National Wildlife Refuge. The wilderness area portion of the refuge is a class I area administered by the U.S. Fish and Wildlife Service. The facility would initially operate at a 900 tons per day (TPD) capacity and be capable of expansion to 1200 TPD.

Under Prevention of Significant Deterioration (PSD) rules, the proposed project would be a significant emitter of particulate matter (PM), sulfur dioxide (SO<sub>2</sub>), carbon monoxide (CO), sulfuric acid mist (H<sub>2</sub>SO<sub>4</sub>), nitrogen oxides (NO<sub>x</sub>), lead (Pb), mercury (Hg), fluorides (F), and volatile organic compounds (VOC). Emissions from the proposed source are estimated as follows: 68 tons per year (TPY) of PM, 471 TPY SO<sub>2</sub>, 1,351 TPY NO<sub>x</sub>, 103 TPY CO, 44 TPY VOC, 75 TPY H<sub>2</sub>SO<sub>4</sub>, 3.4 TPY Pb, 3.07 TPY Hg, 17 TPY F, and 267 TPY hydrogen chloride (HCl). Also, dioxins, furans, and other toxic organics will be emitted from the proposed facility in small quantities. Following are our comments on the best available control technology, air quality, and air quality related values analyses with respect to the proposed project's potential impacts on Chassahowitzka Wilderness Area.

BEST AVAILABLE CONTROL TECHNOLOGY (BACT)

Particulate Matter and Heavy Metals

Pasco County is proposing the use of dry scrubbers/fabric filters to control particulate matter (PM) emissions from the proposed refuse-fired boilers. The PM emission rate specified in the application is 0.015 grains per dry standard cubic foot (gr/dscf). Although the 0.015 gr/dscf rate reflects good control of PM emissions, we do not agree that this rate represents best available control technology (BACT).

According to the Environmental Protection Agency's (EPA) recent report to Congress entitled "Municipal Waste Combustion Study" (June 1987), PM emissions from refuse-fired boilers can be controlled to 0.01 gr/dscf and lower. For example, at Unit 1 of a recently constructed facility in Baltimore, Maryland, PM concentrations of 0.002 gr/dscf were measured. Also, Unit 2 at the Baltimore facility achieved an emission level of 0.003 gr/dscf during a test program conducted by the EPA. Another low PM concentration of 0.004 gr/dscf was reported for a combustor in Wurzburg, Germany. Other facilities equipped with electrostatic precipitators or dry scrubbers/fabric filters have

reported PM concentrations in the range of 0.005-0.013 gr/dscf (Marion County, Oregon; Tulsa, Oklahoma; Trushima, Japan; Malmo, Sweden; and Munich, Germany).

In addition to PM reductions, efficient control of PM emissions also minimizes emissions of heavy metals (lead, cadmium, beryllium, etc.) because heavy metal emissions, which are potentially harmful to animal and plant species, are directly related to the efficiency of the PM control devices. Therefore, based on the EPA data, and the fact that the proposed Pasco County facility will be located only 27 km from a class I Wilderness Area, we recommend a BACT PM limitation of 0.01 gr/dscf.

#### Sulfur dioxide and Acid Gases

For control of SO<sub>2</sub> and acid gas emissions (HCl, H<sub>2</sub>SO<sub>4</sub>, and hydrogen fluoride), Pasco County is proposing to install dry flue gas scrubbers designed for 70 percent and 90 percent control, respectively. We agree that dry flue gas scrubbers represent BACT for the Pasco County facility. However, based on data provided by the EPA and the California Air Resources Board, other dry scrubbing systems have achieved up to 90 and 98 percent control of SO<sub>2</sub> and acid gas emissions, respectively. Again, considering the availability of these control systems and the project's proximity to a class I Federal area, Pasco County should be required to reduce SO<sub>2</sub> emissions by 90 percent and acid gases emissions by 98 percent.

#### Other Pollutants

For control of NO<sub>x</sub>, CO, and VOC emissions, Pasco County is proposing furnace design and combustion controls, including proper distribution of overfire and underfire air, temperature controls, and low excess air firing, as BACT. For toxic organics (i.e. dioxins and furans), Pasco County has proposed combustion controls in combination with the dry scrubber/baghouse system. We agree that the proposed control strategy represents BACT for these pollutants. However, for NO<sub>x</sub>, we do not agree that the proposed rate of 6.17 lb/ton of refuse burned represents BACT. As we have indicated on numerous occasions in the past, based on data from the California Air Resources Board and other permitted resource recovery facilities, combustion controls can reduce NO<sub>x</sub> emissions to less than 3.5 lb/ton. To update the data we provided previously, recent test results from the Maine Energy Recovery Company facility in Biddleford, Maine, which began commercial operation in December 1987, indicate NO<sub>x</sub> emissions of 3.36 lb/ton. This rate is well below the permitted rate of 4.57 lb/ton. In addition, 1987 test results from the Bay County facility in Panama City, Florida, indicate that facility is emitting NO<sub>x</sub> in the range of 2.41 lb/ton. Therefore, we recommend that the proposed 6.17 lb/ton rate be reduced to 3.5 lb/ton.

#### AIR QUALITY ANALYSIS

Based on our review of the applicant's Level I visibility analysis, we agree that there would be low potential for plume impacts on visibility at Chassahowitzka NWR due to emissions from the proposed project. The applicant performed an air quality dispersion modeling analysis using SO<sub>2</sub> increment

consuming source information provided by the Florida Department of Environmental Regulation (DER).

The results indicate that under the worst year of meteorological conditions modeled, the PSD SO<sub>2</sub> increment consuming sources would consume 1.43 ug/m<sup>3</sup> (annual average), 4.91 ug/m<sup>3</sup> (24-hour average), and 21.12 ug/m<sup>3</sup> (3-hour average). This represents 72 percent, 98 percent and 84 percent consumption of the respective SO<sub>2</sub> increments. It is possible that any additional sources in alignment with the Pasco County facility and with TECO Big Bend Unit 4 would exceed the 24-hour SO<sub>2</sub> increment. We are concerned that the modeling did not include the recently permitted PSD sources near Tampa, such as Gardinier phosphate plant. Without the inclusion of these sources, we do not know if the proposed source would cause or contribute to an increment exceedance at the Chassahowitzka NWR. Therefore, we request that the Florida DER provide us a listing of all the PSD SO<sub>2</sub> increment consuming sources (permitted and PSD applications) within 100 km of Chassahowitzka National Wildlife Refuge. We also ask that the Florida DER remodel the additional PSD sources along with the Pasco County RRF in order to determine total increment consumption in Chassahowitzka Wilderness Area.

#### AIR QUALITY RELATED VALUES ANALYSIS

We are also concerned about the total SO<sub>2</sub> concentrations occurring at Chassahowitzka NWR. Effects on sensitive species are the result of total pollutant concentrations, not simply the incremental level. There are at least five generating stations in the area that do not consume PSD increments, but nevertheless contribute to background pollution levels. We request the applicant or the Florida DER to provide an estimate of the total pollution levels occurring at Chassahowitzka Wilderness Area.

#### CONCLUSIONS AND RECOMMENDATIONS

In conclusion, we are requesting that the Florida DER require lower emission limitations for sulfur dioxide, particulate matter, acid gases, and nitrogen oxides, and provide more information on the total and incremental SO<sub>2</sub> concentrations at the refuge. Specifically, we are requesting that (1) the particulate matter emission rate be lowered from 0.015 gr/dscf to 0.01 gr/dscf; (2) sulfur dioxide emissions be reduced by 90 percent, rather than the proposed 70 percent; (3) that acid gas emissions be reduced by 98 percent rather than the proposed 90 percent; and (4) nitrogen oxide emissions be reduced from 6.17 lb/ton to 3.5 lb/ton.

We are also requesting a list of all PSD sources located within 100 km of Chassahowitzka NWR, and remodeling of air quality impacts in Chassahowitzka Wilderness Area due to the proposed Pasco County RRF and all other PSD increment consuming sources. If any proposed source causes or contributes to an increment exceedance at a class I area, the Federal Land Manager must certify no adverse impact before that source can be permitted. Total SO<sub>2</sub> concentrations (background plus the proposed source and all increment consuming sources) should also be given for the Chassahowitzka Wilderness Area.

RECEIVED  
MAR 25 1988

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

Dept. of Environmental Reg.  
Office of General Counsel

In Re: DEPARTMENT OF ENVIRONMENTAL REGULATION  
Application Number PA 87-23  
Pasco County, Applicant Case No. \_\_\_\_\_

MOTION TO INTERVENE

Comes now SHADY HILLS PARK AND CIVIC ASSOCIATION, INC., by and through its undersigned attorney, and files this Motion to Intervene pursuant to Section 403.508 (4)(d), Florida Statutes, and Section 28-5.207, Florida Administrative Code, and as grounds therefor would show:

1. The name and address of the agency affected and the agency's file and identification numbers are:

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL REGULATION  
Twin Tower Office Building  
2600 Blairstone Road  
Tallahassee, Florida 32301  
File Number PA 87-23

2 (a) Movant is the SHADY HILLS PARK AND CIVIC ASSOCIATION, INC., a non-profit Florida Corporation, organized to promote civic purposes including the protection of the environment, and promotion of the orderly development of Pasco County, Florida. Movant's address is P. O. Box 11369, Shady Hills, Florida 34610.

2 (b) The substantial interests of all members of the SHADY HILLS PARK AND CIVIC ASSOCIATION, INC. will be affected by this agency determination. If permitted, the facility will have an adverse impact on the air quality in Pasco County, Florida, due to the increased emissions from the proposed facility. The activity if permitted will also result in reduced property values and the degradation of habitat for endangered or threatened species.

3. Movant received notice of the agency's decision of intent to issue a certification authorizing construction and operation of an electrical power plant near Port Richey, Florida, and setting a hearing for April 11, 1988 through April 13, 1988 on said certification, through public notice published in the Pasco

County Times (Exhibit "A").

4. The disputed issues of material fact are:

a) The intention to incinerate imported recyclable non-offensive wastes has not been justified in regard to possible health and environmental degradation.

b) The BACT determination is inadequate because it does not require the replacement of the incineration portion of the proposed plant with other proven non-incineration methods of resource recovery and landfill reduction which have been shown to be the best available control technologies.

c) The emitted volume of dioxin and its effect on human animal life must be addressed in relation to all available information.

d) The determination regarding the facility's emissions and said emissions health effects on children is inadequate.

e) There is inadequate data to support the assertion that it will not greatly affect the existence of a number of endangered and threatened species of animals and plants.

f) Adequate ambient monitoring requirements have not been performed.

g) Any information regarding flyash resulting from the operation is inadequate for the conclusion that such ash will not contain high concentrates of toxic materials. The application contains inadequate data to support the determination that adequate provisions exist for the detection of hazardous waste at the proposed facility.

h) There is inadequate data to provide reasonable assurance that the blowdown process water will be adequately treated.

5 (a) The ultimate facts alleged are:

A) The incineration of imported recyclable and non-offensive waste cause an increase in emissions of undesirable materials and increase air emissions above significant PSD emission rates.

B) Scientific review and analysis of various waste

handling methods shows the benefits of using methods other than incineration. A determination on BACT cannot be made without understanding what systems best satisfy Pasco County's needs.

C) Current information is not available regarding the composition of Pasco County wastestream which would allow for the determination of what materials are present and to what proportion they are present within the County's wastestream. This fact must be considered in regards to determining plant's emissions.

D) Data on human exposure to TCDD and related compounds and their accumulation in human tissue and their side effect on human health has not been considered. It has not been shown that information on ambient levels of dioxin in airfood and human tissue have been included for consideration.

E) Research indicating that children's sensitivity to air pollutants may be up to six times greater than that of adults has not been considered.

F) It is has not been shown that this facility does not violate the Federal Endangered Species Act.

G) Adequate ambient air monitoring requirements have not been performed.

H) Research indicates that flyash may be toxic and require special handling with regard to disposal. Placement of such material in a landfill constitutes a danger of groundwater contamination.

I) Inadequate provisions have been made for the disposal of blowdown process water.

J) The facility is oversized and requires the importation of wastes from surrounding counties. This produces excessive amounts of flyash, thereby shortening the life of county landfills and placing additional financial costs on the county.

K) The location of the facility is defective in that the area is one of high sinkhole activity.

5 (b) The rules and statutes which entitle Movant to relief are:

- (1) Chapter 120, Florida Statutes
- (2) Chapter 403, Florida Statutes
- (3) Chapters 17-1, 17-2, 17-3, 17-4, 17-6, 17-7 and 17-22, Florida Administrative Code
- (4) Chapter 28-5, Florida Administrative Code

6. Movant respectfully requests the denial of Permit Application Number PA 87-23.

7. Movant alleges that the following information is also material to this determination:

A) The water usage necessary for this facility to operate is drawn from an aquifer near the facility endangering wetland areas in the vicinity of the facility, and endangering the structural integrity of the sub-surface geology below the facility.

B) The possibility of landfill ash being disrupted by storm events and surface flooding has not been addressed.

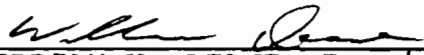
C) There was no meteorological data taken from the proposed facility site.

D) Standards for dioxin are currently under review and any such future standard should be applied to the discharge from this facility.

WHEREFORE, Movant, SHADY HILLS PARK AND CIVIC ASSOCIATION, INC., by and through its undersigned attorney, files this Motion to Intervene and respectfully requests that:

- 1) It be granted party status in this proceeding;
- 2) That Application Number PA 87-23 for certification to authorize construction and operation of an electrical power plant near Port Richey, Florida, be denied.

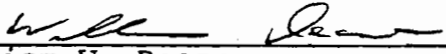
DATED this 23<sup>rd</sup> day of March, 1988.

  
WILLIAM W. DEANE, Esquire  
1700 9th Street North, Suite B  
Post Office Box 7473  
St. Petersburg, Florida 33734  
813-821-4277  
Attorney for Movant



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original of the foregoing Motion to Intervene has been furnished to DIANE TREMOR, Hearing Officer, Division of Administrative Hearings, The Oakland Building, 2009 Apalachee Parkway, Tallahassee, Florida 32399-1550, and copies thereof have been furnished to DANIEL THOMPSON, Esquire, General Counsel, State of Florida Department of Environmental Regulation, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, DAVID S. DEE, Esquire, P. O. Box 190, Tallahassee, Florida 32302, and JAMES BENJAMIN HARRILL, County Attorney, Pasco County Government Center, 7530 Little Road, New Port Richey, Florida 33533, by U. S. Mail, this 23<sup>rd</sup> day of March, 1988.

  
\_\_\_\_\_  
William W. Deane

LEGAL NOTICE

**NOTICE OF CERTIFICATION HEARING ON AN APPLICATION TO CONSTRUCT AND OPERATE AN ELECTRICAL POWER PLANT ON A SITE TO BE LOCATED NEAR NEW PORT RICHEY, FLORIDA**

1. Application number PA 87-23 for certification to authorize construction and operation of an electrical power plant near Port Richey, Florida, is now pending before the Department of Environmental Regulation, pursuant to the Florida Electrical Power Plant Siting Act, Part II, Chapter 403, F.S.
2. The proposed 751 acre resource recovery site is located in the northwestern portion of unincorporated Pasco County. The site is approximately two and one-half miles north of State Road 52. It is bounded on the west and south by Hayes Road, on the east by Shady Hills Road, and on the north by Blue Bird Lane. Florida Power Corporation has a 295-foot wide transmission line right-of-way crossing the site. Initially the site will house a 900 tons per day solid waste burning resource recovery facility. The power plant will ultimately be expanded to 1200 tons per day generating 29 Maw of electricity. A short transmission line will connect to an existing PPC substation to the southwest of the facility.
3. The Department of Environmental Regulation has evaluated the application for the proposed power plant and intends to recommend approval of the project subject to conditions of certification. Certification of the plant would allow its construction and operation. The application and Staff Analysis Report are available for public inspection at the addresses listed below:

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION  
Southwest District Office  
4520 Live Oak Park Boulevard  
Tampa, Florida 33610-7347

PASCO COUNTY UTILITIES DIVISION  
7536 State Street  
New Port Richey, Florida 34654

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
2379 Broad Street  
Brooksville, Florida 34609-8097

4. Pursuant to Section 403.508, Florida Statutes, the certification hearing will be held by the division of Administrative Hearings on April 11-13, 1988, in the Sheraton Inn, 5316 U.S. Highway 19, New Port Richey, Florida 34654, in Pasco County, Florida, at 10:30 a.m., to take written and oral testimony on the effects of the proposed electrical power plant or any other matter appropriate to the consideration of the site. Need for the facility has been predetermined by the Public Service Commission at a separate hearing. Written comments may be sent to the Hearing Officer on or before April 1, 1988.
5. Pursuant to 403.508 (4), F.S.

(a) Parties to the proceeding shall include, the applicant, the Public Service Commission, the Division of State Planning, the water management district as defined in Chapter 373, in whose jurisdiction the proposed electrical power plant is to be located, and the Department.

(b) Upon the filing with the Department of a notice of intent to be a party at least 15 days prior to the date set for the land use hearing, the following shall also be parties to the proceeding:

1. Any county or municipality in whose jurisdiction the proposed electrical power plant is to be located.
2. Any state agency not listed in paragraph (a) as to matters within its jurisdiction.
3. Any domestic non-profit corporation or association formed in whole or in part to promote conservation or natural beauty; to protect the environment, personal health, or other biological values; to preserve historical sites; to promote consumer interests; to represent labor, commercial or industrial groups; or to promote orderly development of the area in which the proposed electrical power plant is to be located.

(c) Notwithstanding paragraph (4) (d), failure of an agency described in subparagraphs (4) (b) 1 and (4) (b) 2 to file a notice of intent to be a party within the time provided herein shall constitute a waiver of the right of the agency to participate as a party in the proceeding.

(d) Other parties may include any person, including those persons enumerated in paragraph (4) (b) who failed to timely file a notice of intent to be a party, whose substantial interests are affected and being determined by the proceeding and who timely file a motion to intervene pursuant to Chapter 120, F.S., and applicable rules. Intervention pursuant to this paragraph may be granted at the discretion of the designated hearing officer and upon such conditions as he may prescribe any time prior to 15 days before the commencement of the certification hearing.

6. When appropriate, any person may be given an opportunity to present oral or written communications to the designated hearing officer. If the designated hearing officer proposes to consider such communications, then all parties shall be given an opportunity to cross-examine or challenge or rebut such communications.

7. Notices or petitions made prior to the hearing should be made in writing to:

Ms. Diane D. Tremor  
Division of Administrative Hearings  
The Oakland Office Building  
2009 Apalachee Parkway  
Tallahassee, Florida 32399-1500

8. Those wishing to intervene in these proceedings must be represented by an attorney or other person who can be determined to be qualified to appear in administrative hearings pursuant to Chapter 120, F.S., or Chapter 17-1.21, FAC.

9. This Public notice is also provided in compliance with the Federal Coastal Zone Management Act, as specified in 15 CFR Part 930, Subpart D. Public Comments on the applicant's federal consistency certification should be directed to the Federal Consistency Coordinator, Division of Environmental Permitting, Department of Environmental Regulation.

10. On November 16, 1987, Pasco County applied to the DER to construct the aforementioned resource recovery plant. The application is also subject to U.S. Environmental Protection Agency (EPA) regulations for Prevention of Significant Deterioration of air quality (PSD), codified at 40 CFR 52.21, and Florida Administrative Code Chapter 17-2.04. These regulations require that, before construction on a source of air pollution subject to PSD may begin, a permit must be obtained from DER. Such permit can only be issued if the new construction has been determined by DER to comply with the requirements of the PSD regulations, which are described in 40 CFR 52.21 and 17-2.04, F.A.C. These requirements include a restriction on incremental increases in air quality due to the new source and application of best available control technology (BACT). The DER has been granted a delegation by EPA to carry out the PSD review of this source. Acting under that delegation, the DER has prepared a draft permit which is included in the DER's staff analysis report. The DER has made a preliminary determination that the proposed construction will comply with all applicable PSD regulations. The degree of Class II Increment consumption that will result from the construction is:

Pollutant	Annual Average	24-Hr. Average	3-Hr. Average
Particulate	0.5%	1%	1%
Sulfur Dioxide	2%	5%	5%

The source is located approximately 27 kilometers from the nearest Class I area.

The degree of Class I Increment consumption that will result from the construction and operation of the source is:

Pollutant	Annual Average	24-Hr. Average	3-Hr. Average
Particulate	1%	0.04%	0%
Sulfur Dioxide	1%	8%	8%

Construction and operation of the source will not cause a violation of any ambient air quality standard nor will it cause an exceedance of any PSD increment.

4-29-88

Tj or Tallahassee, FL

*file copy*

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

ATTORNEYS AT LAW

ONE HARBOUR PLACE  
P. O. BOX 3239  
TAMPA, FLORIDA 33601  
(813) 223-7000

FIRSTSTATE TOWER  
P. O. BOX 1171  
ORLANDO, FLORIDA 32802  
(407) 849-0300

HARBOURVIEW BUILDING  
P. O. BOX 12426  
PENSACOLA, FLORIDA 32582  
(904) 434-0142

FIRST FLORIDA BANK BUILDING  
P. O. DRAWER 190  
TALLAHASSEE, FLORIDA 32302  
(904) 224-1585

PLEASE REPLY TO:

July 29, 1988

Tallahassee

Clair Fancy  
Department of Environmental  
Regulation  
Bureau of Air Quality Management  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399

Re: Pasco County Resource Recovery Facility

Dear Clair:

On July 19, 1988, the Hearing Officer entered a recommended order which recommended the approval of the Pasco County resource recovery facility. A copy of her recommended order is enclosed for your review.

We expect this recommended order to be considered by the Cabinet Aides on Wednesday, August 17, 1988 and by the Governor and Cabinet on Tuesday, August 23, 1988. Since this project has been controversial, Richard Donelan may want you to accompany him to the Cabinet Aides and Cabinet meetings. We would expect the Governor and Cabinet to ask the Department about the potential impacts of the project on air quality.

As you recall, the Power Plant Siting Act was amended to address certain issues raised by the United States Environmental Protection Agency concerning the Department's issuance of PSD permits. Section 403.509(2), Florida Statutes, provides:

Simultaneously with the [Governor and Cabinet's] action on the application, the Department shall issue or deny any permit required pursuant to any federally delegated or approved permit program.

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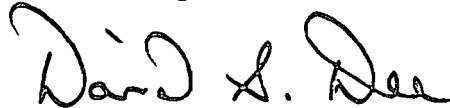
Clair Fancy  
Page Two  
July 29, 1988

In this case, we assume that the Department will issue a PSD permit for the Pasco County resource recovery facility when the Governor and Cabinet consider the Hearing Officer's recommended order.

Since we have not received EPA's written approval of the project, please send us any comments or approvals that you have received from EPA. If you have not yet received any, please contact EPA and take whatever steps are necessary to ensure that EPA issues its written approval of the project before the issuance of the PSD permit. Pasco County would like to receive express authorization from EPA so that Pasco County can avoid the problems that EPA created for Hillsborough County.

We sincerely appreciate your assistance and cooperation with these matters.

Sincerely,



David S. Dee

cc: Richard Donelan  
Buck Oven  
Barry Andrews  
Bob Hauser

DSD/vc:Fancy-3

*Copied: Pradeep Raval  
Tom Rogers  
Bill Thomas, SW Dist.  
Bruce Miller, EPA  
Miguel Flores, NPS  
CHF/BT  
Barry Andrews*



State of Florida  
Division of Administrative Hearings  
The Oakland Building, 2009 Apalachee Parkway  
Tallahassee, Fl. 32399-1550  
(904) 488-9675 • SunCom: 278-9675

Sharyn L. Smith  
Director

Ann Cole  
Clerk

July 19, 1988

Honorable Bob Martinez  
Governor  
The Capitol  
Tallahassee, FL 32399

Honorable Gerald Lewis  
Comptroller  
The Capitol  
Tallahassee, FL 32399

Honorable Bob Butterworth  
Attorney General  
The Capitol  
Tallahassee, FL 32399

Honorable Bill Gunter  
Insurance Commissioner  
The Capitol  
Tallahassee, FL 32399

Honorable Doyle Conner  
Commissioner of Agriculture  
The Capitol  
Tallahassee, FL 32399

Honorable Betty Castor  
Commissioner of Education  
The Capitol  
Tallahassee, FL 32399

Honorable Jim Smith  
Secretary of State  
The Capitol  
Tallahassee, FL 32399

RE: Application for Power Plant Site  
Certification of Pasco County Solid Waste  
Resource Recovery Facility  
Case No. 87-5337

Dear Members of the Siting Board:

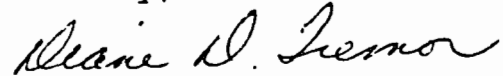
Enclosed is my Recommended Order for the site certification portion of the referenced proceeding. Under separate cover, I am forwarding the three-volume transcript of the hearing, Pasco County's Exhibits 1 through 19, 22A through 22E, and 24, the DER's Exhibits 1 through 4, and the Intervenor's Exhibit 1 to Hamilton S. Oven, Jr., the DER Administrator of the Siting Coordination Section, for future transmittal to the Board.

Copies of this letter will serve to notify the parties that my Recommended Order and the record have been transmitted to you on this date. Pursuant to Section 120.57(1)(b)9, Florida Statutes, the parties are advised that they are allowed to file written exceptions thereto with the Governor and Cabinet, sitting as the Siting Board.

Members of the Siting Board  
Page Two

Please furnish the Division of Administrative Hearings with a copy of the Final Order rendered in this proceeding so that our files will be complete.

Sincerely,



DIANE D. TREMOR  
Hearing Officer

DDT/dfc  
Enclosures as shown

cc: Dale Twachtmann, Secretary, DER  
Hamilton S. Oven, Jr., Administrator  
David S. Dee, Esquire  
Richard T. Donelan, Jr., Esquire  
Edward B. Helvenston, Esquire  
C. Laurence Keesey, Esquire  
William W. Deane, Esquire

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: )  
 )  
Application for )  
Power Plant Site Certification )  
of Pasco County Solid Waste ) CASE NO. 87-5337  
Resource Recovery Facility )  
\_\_\_\_\_ )

RECOMMENDED ORDER

Pursuant to notice, an administrative hearing was held before Diane D. Tremor, Hearing Officer with the Division of Administrative Hearings, on April 11 and 12, 1988, in New Port Richey, Pasco County, Florida. The issue for determination at this certification hearing, held pursuant to Section 403.508(3), Florida Statutes, is whether Pasco County's proposed resource recovery facility, landfill/ashfill and associated facilities are entitled to approval by the Governor and Cabinet, sitting as the Siting Board, in accordance with the Florida Electrical Power Plant Siting Act, Sections 403.501, et seq., Florida Statutes (1987).

APPEARANCES

For the Applicant  
Pasco County:

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For Intervenor Shady Hills  
Park and Civic Association:

William W. Deane, Esquire  
1700 9th Street North, Suite B  
St. Petersburg, FL 33704

#### INTRODUCTION

On November 17, 1987, Pasco County filed an application for approval of a resource recovery facility, landfill/ashfill and associated facilities pursuant to the Florida Electrical Power Plant Siting Act, Sections 403.501, et seq, Florida Statutes (1987). The undersigned presided over the land use hearing on February 16, 1988, to determine whether the site selected for the project was consistent and in compliance with existing applicable land use plans and zoning ordinances. A Recommended Order finding such consistency and compliance was entered on March 25, 1988.

On March 24, 1988, the Shady Hills Park and Civic



Association, Inc. filed a motion to intervene and participate as a party at the certification hearing. Thereafter, Pasco County moved to strike certain portions of the motion to intervene. After a telephone conference call, the undersigned granted the motion to intervene, but struck those portions of the intervenor's petition which attempted to raise issues beyond the scope of the certification hearing; i.e: the impact of the project upon property values; alternatives to the proposed method of solid waste disposal, except insofar as such alternatives may relate to the Best Available Control Technology; and issues regarding unadopted dioxin standards. The intervenor's post-hearing motion filed on June 7, 1988, to "supplement record, reopen hearing and hear testimony" was denied by separate order filed on June 28, 1988.

In support of its application, Pasco County presented the testimony of Robert Hauser, Jr., accepted as an expert concerning solid waste disposal, including the use of landfills and resource recovery facilities; Donald Elias, accepted as an expert concerning air pollution, including the air emissions from resource recovery facilities; Walter R. Niessen, accepted as an expert concerning resource recovery facilities, including dioxin emissions from such facilities; Clair Fancy, accepted as an expert concerning the regulation of air pollution; Hamilton S. Oven, Jr., the Department of Environmental Regulation's Administrator in charge of the Siting Coordination Section; and Suheil "Jim" Jammal, accepted as an expert in the area of geotechnical investigation, with special emphasis upon sinkholes.

Pasco County's Exhibits 1 through 19, 22A-E, and 24 were received into evidence.

The Florida Department of Environmental Regulation (DER), the Florida Department of Community Affairs (DCA), the Florida Public Service Commission (PSC) and the Southwest Florida Water Management District (SWFWMD) are parties to this proceeding pursuant to Section 403.508(4)(a), Florida Statutes. The DER called one witness, Clair Fancy, and introduced DER Exhibits 1 through 4 without objection. The DCA and SWFWMD did not call any witnesses or proffer any exhibits at the site certification hearing. The PSC made no appearance at the hearing.

Testifying on behalf of the intervenor Shady Hills Park and Civic Association, Inc. were John Parker, accepted as an expert in the area of hydrogeology (as limited to his review of the subject application for certification); Dr. Ernest Dwight Adams, accepted as an expert in physics, as it relates to solid waste management; John James Gallagher, the Pasco County Administrator; and Edward Kooper, accepted as an expert concerning the induced draft combustion process as it relates to foundries. Also, the intervenor's Exhibit 1, the deposition testimony of Gardner Strasser, was received into evidence.

The public comment portion of the certification hearing was conducted on the evening of April 11, 1988. Testifying as members of the general public were Brad Cecil, Irving Siegel, Mike Snider, Gerden M. Monk, Linda Johnson, John Bragg, Linda Almond, Tom Strode, Ruth Kirkman, Betty Tillis, Ernest Longo, David Hausman, John Hausman, Curtis Almond, Regina Longo, Sandra

Lugar, Richard Konst, Julie Sandlin, Steve Robinson, Amelia Bruno, Robin Bragg, Laura Osmundsen, Mary Parino, Michael May, Tom Collins, Terry Waddell, Robert Logan, Angie Almond, Sonya Logan, Lynda Economos, Florence Freudenstein, Mary Mazzuco, Donald Acreman, William Hubbardson, Rosalind Estrin, Carol Lezark and Leslie Diane Acreman. Testifying as members of the general public during other portions of the hearing were Mark D. Goldstein and William F. Belote. Several public comment letters were received into evidence.

Subsequent to the certification hearing, Pasco County, the DER and the intervenor submitted proposed findings of fact and proposed conclusions of law. The SWFWMD adopted the proposals submitted by the DER. To the extent that the parties' proposed findings of fact are not included in this Recommended Order, they are rejected for the reasons set forth in Appendix B hereto.

#### FINDINGS OF FACT

Upon consideration of the oral and documentary evidence presented at the site certification hearing, the following relevant facts are found:

(1) After investigating and evaluating alternative methods of solid waste disposal for several years, Pasco County determined that a mass burn resource recovery (refuse to energy) system was the most prudent long-term method of disposal for Pasco County. In 1984, the citizens of Pasco County approved a "straw ballot" proposal providing for the establishment of a

resource recovery system financed with non-tax supported bonds in lieu of utilizing sanitary landfills as a primary disposal method. (Exhibit 2, at 3-1) In 1987, the Legislature adopted a Special Act (Chapter 87-441, Laws of Florida) which authorized a solid waste disposal and resource recovery system within Pasco County and gave the County exclusive control over the collection and disposal of solid waste generated or brought within the area affected by the special act.

(2) The site selected for the proposed project, as well as the surrounding area, has been fully described and discussed in the Recommended Order entered on March 25, 1988, after the land use hearing. To briefly summarize, the project is to be located on an undeveloped 751 acre parcel of land owned by the County. The site is in an unincorporated area of northwest Pasco County, approximately two and a half miles north of Highway 52 and about four to five miles west of Route 41. It is accessible by Hays Road, which forms part of its southern and western boundaries. The property includes several isolated ponds located west of a Florida Power Corporation transmission line which bisects the property and runs in a north/south direction. The entire proposed project, with the exception of two wells and one retention pond, will be situated east of the power lines. The areas around the site consist primarily of vacant grass lands, small farms and low density residential areas. There is an existing recreational park near the north boundary of the site, and there are existing and proposed schools and parks located within five miles of the site. Aproximately 18,000

people reside within five miles of the site. In addition, there is a Girl Scout camp located about 3 miles from the site and a new development known as the Word of Life Youth Camp and Adult Conference Center being built approximately two miles southwest of the site. The resource recovery facility will be located on the southeastern portion of the site, and will be approximately 2,400 feet from the nearest home, which is located on Hays Road. The facility will be about 4,600 feet from the site's northern boundary and there will be at least 700 feet of buffer between the landfill/ashfill and the northern boundary. Approximately 65% of the site will be maintained as open areas or buffer zones.

(3) No threatened or endangered plant or animal species were discovered on the site; however, the site does provide habitat for a species of special concern - the gopher tortoise. Upon the recommendation of the Florida Game and Fresh Water Fish Commission, the County has agreed to relocate the tortoises to the southwest corner of the site and to work with the Commission in the relocation plan and long term management plan prior to the commencement of clearing activities. See Section XXI of Conditions of Certification.

(4) No significant archaeological or historical sites have been identified as lying within the boundaries of the proposed site.

(5) The proposed project will consist of an access road, a gatehouse/weigh station, an enclosed waste receiving and handling building, an incineration and cooling system, an air pollution control system, a landfill/ashfill, four stormwater

retention ponds, a transmission line from the plant to an on-site Florida Power Corporation substation, and two wells to supply the plant with potable water and to provide an alternative source of cooling water, if needed. The resource recovery system will convert solid waste into electrical power through a combustion process that utilizes a mass burn technology. The ash from the combustion process will be landfilled after metals have been removed. The combustion gases will travel through an acid gas control dry scrubber and a baghouse and be discharged through a stack into the atmosphere. There will not be any significant preprocessing of the refuse at the facility prior to combustion. Waste will be brought to the facility by approximately 90 to 100 trucks per day. All areas where refuse will be handled will be fully enclosed to prevent noise and the escape of dust and odors.

(6) The County is seeking approval of an ultimate site generating capacity of 29 megawatts and an ultimate disposal capacity of 1200 tons per day. Initial plant operation is expected to employ three mass burn furnace units of 350 tons per day capacity each, for a combined capacity of 1,050 tons per day. All of the County's environmental analysis evaluated the impacts of the facility at its ultimate site capacity of 1,200 tons per day.

(7) During normal operation, all of the facility's cooling water will be treated effluent drawn from the County's Hudson subregional wastewater treatment plant. For emergency use, an on-site well will be reserved as an alternative source of cooling water. All wastewater created will be routed back by

pipeline to the Hudson plant for treatment and disposal. No process water from the resource recovery facility will be discharged directly to surface or groundwaters.

(8) A stormwater management system with four retention ponds will be constructed on the site to ensure that the first inch of stormwater is retained for infiltration in 72 hours. The system is designed to ensure that the post-development peak run-off rate from the 25 year, 24 hour storm event will not exceed the predevelopment run-off rate from a similar storm. No wetland areas will be destroyed or otherwise affected by the proposed project.

(9) The proposed resource recovery facility will emit a variety of pollutants into the ambient air. During the application process, the County's consultants worked with the DER and the United States Environmental Protection Agency (EPA) to establish an appropriate plan of study and protocol for assessing the project's air emissions. The data utilized by Pasco County was appropriate and provided a conservative representation of air quality at the site.

(10) Since the facility will emit more than 100 tons per year of carbon monoxide, it is subject to Prevention of Significant Deterioration (PSD) review, which includes a Best Available Control Technology (BACT) review. The facility is expected to emit nine PSD-regulated pollutants in PSD significant amounts. These include the criteria pollutants of particulate matter (PM), sulfur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>), carbon monoxide (CO), volatile organic compounds (VOC), and lead (Pb),

and the non-criteria substances of flourides, sulfuric acid mist and mercury.

(11) The County performed a BACT analysis on a pollutant-by-pollutant basis, and attempted to balance energy, environmental and economic considerations. The air pollution controls proposed represent the BACT for this facility. These include a dry scrubber for the control of acid gases and a baghouse (fabric filter) for the control of particulate matter. Such controls are in accordance with the EPA's current operational guidance policies for a proposed municipal waste combustion source. The County's air quality modeling demonstrates that the operation of a 1,200 ton per day facility will not violate any state or federal guidelines or standards regulating airborne emissions. The anticipated emissions will be substantially less than the Florida Ambient Air Quality Standards.

(12) The incineration of plastics produces hydrochloric acid and yard waste produces nitrous oxide. The intervenor has contended that plastics, metals, glass and yard clippings should be removed from the waste stream before they are incinerated in the resource recovery facility. The County considered source separation and recycling when considering the BACT for this facility. Due to the difficulty of obtaining public cooperation, economic feasibility, reliability on a day-to-day basis, as well as the effectiveness of the dry scrubber and baghouse in removing acid gases and particulate matter, the County concluded that source separation would not be a feasible technique for



controlling emissions in a municipal facility of this size. While some emissions of pollutants could perhaps be reduced even further by the removal of plastics, yard trash and metals from the waste stream prior to incineration, further reductions in the emissions expected from operations of the County's proposed system would not produce any meaningful benefits and would add considerable costs. The County will, however, continue to investigate recycling and source separation as part of an overall management program.

(13) Pasco County will control dioxin emissions from the facility by maintaining a good, well-mixed combustion system that will maintain a temperature of 1800 degrees fahrenheit for a minimum of one second and through the use of the dry scrubber and baghouse system. The dioxin emissions will be extremely low and of no unacceptable risk to the health of the public.

(14) Hazardous wastes, hospital wastes and infectious wastes will not be permitted at the landfill or the resource recovery facility. If such wastes are discovered, they will be segregated and promptly removed from the site. While small quantities of pesticides or volatile organic compounds may enter the waste stream, the system is designed to handle such small quantities.

(15) The landfill will receive the non-processable waste and the ashfill will receive the ash residue resulting from the combustion of residential and commercial waste. The landfill/ashfill will be operated as a monofill -- i.e., unprocessed refuse will be placed in cells where it can be kept

apart from the incinerator ash. It will be built over a period of 30 years, and will occupy approximately 195 acres of the most favorable portions of the site. The design of the landfill/ashfill includes two separate synthetic liners, two leachate collection systems and sixteen separate cells. The two liner systems will provide two layers of protection for groundwater resources beneath the site. There will be two feet of sand between the ash and the top liner and another twelve inches of sand between the top and bottom liners. Two leachate collection systems will collect and remove any fluids that drain through the refuse. The liner systems are designed to last indefinitely; however, the manufacturers of the liner material provide only a two or three year warranty for materials, workmanship and installation. When a cell is closed, it will receive an impervious cap so that rainfall cannot enter the cell. The weight of a fully loaded cell 100 feet high is expected to cause approximately 15 inches of settlement at the center.

(16) The County's consultants conducted an extensive geotechnical investigation of the subsurface conditions at the site to determine its acceptability for the total facility and to evaluate the site's ability to provide an adequate foundation for the facility. Topographic maps showed some circular depressions within the property boundaries of the landfill/ashfill. Ground penetrating radar revealed some 18 anomalies, and these were all investigated to determine if there were any potentials for sinkholes or subsiding structures on the site. Some 88 borings were installed at the site. The borings demonstrated that the

anomalies were not historic sinkholes and would not adversely affect the landfill/ashfill operation:

(17) The portion of the site deemed most appropriate for the landfill/ashfill is of relatively uniform stratigraphy characterized by a uniform layer of surficial sand, a reasonably continuous clay confining layer from 5 to 15 feet thick, under which lies the limestone groundwater-bearing formation, the Floridan aquifer. The 267 acres deemed acceptable for the construction of the landfill/ashfill is believed by experts to have a low potential for sinkholes. Should a sinkhole occur, it would not be a large or catastrophic sinkhole, but instead would be expected to be no more than 10 to 15 feet in diameter and 4 to 6 feet in depth. The landfill liner is designed to elongate and stretch to accommodate a potential sinkhole of such size. Also, installation of the impervious liners will eliminate surface water recharge to the Floridan aquifer within the landfill boundaries. Since the movement of water through the subsurface contributes to the formation of sinkholes, the liner installation will substantially reduce the likelihood of new sinkholes in that area. As an additional precaution, the County intends to proof roll the area with heavy mechanical equipment prior to the installation of the liner systems. This will trigger subsidence of any collapse-prone sediments in the area. Neither the project's two wells nor other agricultural or private potable wells in the area are expected to affect the development of sinkholes at the site.

(18) The combustion of municipal solid waste will reduce the volume of waste to be landfilled by approximately 70%, and will reduce the County's need for landfill capacity by some 13.5 million cubic yards over a 24-year period. At the same time, the facility will generate at least 182 million kilowatt hours of electricity per year, or 3.7 billion kilowatt hours over the minimum 20 year life of the facility. Electricity will be produced by utilizing materials that otherwise would be buried in a landfill and the use of crude oil will be decreased by some 352,000 barrels per year, saving some \$6.3 million per year. The local economy of the area will benefit from the operation and construction of the facility.

(19) By Order Number 17752, the Florida Public Service Commission granted the petition of Pasco County for a determination of need for its proposed 29 megawatt facility. The Commission found that, although the plant is small, it would contribute to the reliability and integrity of the electric system in peninsula Florida.

(20) The Florida Department of Community Affairs evaluated the compatibility of the proposed project with the applicable goals and policies contained in the State Comprehensive Plan. With certain conditions of certification relating to groundwater monitoring, a contingency plan for the mitigation of any detected leachate leakage and a buffer zone to minimize noise and aesthetic aspects, the Department found the project to be compatible with the State Comprehensive Plan's policies and goals concerning water resources, natural systems

and recreational lands, air quality, energy, hazardous and nonhazardous wastes, land use, public facilities and cultural and historical resources.

(21) The Southwest Florida Water Management District (SWFWMD) evaluated the County's proposal in accordance with its responsibilities regarding the consumptive use of water (the two on-site wells), surface water management and the project's impact on water resources. With certain recommendations regarding the construction and operation of the facility, the SWFWMD recommended approval of the project. Such recommendations have been incorporated into the conditions of certifications.

(22) The County's application for site certification was also reviewed by Florida's Department of Commerce, Department of State, Department of Natural Resources, Department of Agriculture and Consumer Services and Game and Fresh Water Fish Commission. (Exhibits 11-15) Each agency commented favorably on the project with regard to those areas within their jurisdiction and concern. To the extent that recommendations were made and concerns expressed, they have been incorporated into the conditions of certification.

(23) The County's application was thoroughly evaluated by the DER's staff from the Tampa District Office and the Bureaus of Permitting, Groundwater Protection, Air Quality Management, Waste Management, and Laboratories and Special Programs. The DER concluded that the proposed design of the facility offered reasonable assurances that DER standards would be met and

recommended certification of the project subject to the conditions of certification.

(24) Pasco County has stipulated that it will accept and comply with all proposed conditions of site certification, and the evidence demonstrates that the County will be able to do so. The County has not requested any variances from any applicable standards or regulations of any agency for the construction or operation of the proposed facility.

(25) On March 10, 1988, the DER issued a News Release announcing its intent to recommend approval of the County's proposed project and advising of the certification hearing scheduled to commence on April 11, 1988. Notice of the site certification hearing was also published on March 11, 1988, in both the Florida Administrative Weekly and the Pasco Times, a daily newspaper published at Port Richey in Pasco County. In addition, notice of the DER determination of Best Available Control Technology (BACT) to minimize air pollutant emissions from the proposed facility was published in the Florida Administrative Weekly on March 4, 1988. Copies of the County's application and notice of the DER's proposed agency action were also provided to the United States EPA, the Federal Land Manager, the Tampa Bay Regional Planning Council and other persons and agencies entitled to notice pursuant to the DER's rules.

(26) Forty-one non-party members of the general public testified at the site certification hearing in opposition to the County's proposed resource recovery facility project. Although an evening session was set aside for this purpose, most of these

citizens attended all or most of the formal presentation of evidence by the parties to this proceeding. The public comment and concern covered a wide range of issues, most of which were addressed at the hearing, in this Recommended Order and in the prior Recommended Order entered after the land use hearing. The concerns of the public included water quality and concerns for the Floridan aquifer, zoning; recreational activity in the vicinity of the project; dust from increased traffic; alternative methods of waste management, including source separation, recycling, and composting; toxic emissions and other forms of air pollution; flooding and stormwater management; the integrity and reliability of the proposed landfill/ashfill liners; the impact upon property values in the area; the safe operation of the facility; health hazards; fire protection; sinkholes; lack of opportunity for public input into the County's decision-making process; endangered wildlife; aesthetics; and the costs of resource recovery and waste disposal to the citizens of Pasco County.

#### CONCLUSIONS OF LAW

This proceeding is governed by the Florida Electrical Power Plant Siting Act, Sections 403.501, et seq. Florida Statutes (1987), as well as the rules and regulations contained in Chapter 17-17 and 17-2 of the Florida Administrative Code. The Act sets forth a uniform review procedure whereby state and local concerns are coordinated and decisions can be reviewed on the basis of the standards and recommendations of the various

deciding agencies. It is intended that the need for a particular facility will be balanced against the effects of its location and operation upon "human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic life." Section 403.502, Florida Statutes.

Here, the PSC has determined that there is a need for the proposed solid waste resource recovery facility. In order to balance that need against the environmental impacts resulting from the construction and operation of such a facility, the County retained the services of highly qualified consultants to investigate and devise a system that would produce no adverse effects upon human health or the environment. Pasco County has presented competent substantial evidence that its proposed state-of-the-art design and methods of operation for the resource recovery facility, the landfill/ashfill and associated facilities at the proposed location will satisfy the criteria and balancing test required by the Legislature. All of the reports, studies and comments from the various state and regional agencies confirm such conformance and compliance with applicable standards and regulations, provided that the conditions of certification are met. Pasco County has confirmed its willingness and its ability to comply with such conditions.

The application process was conducted in accordance with the procedural requirements of Chapter 403, Part II, Florida Statutes, and all notice requirements were met. The DER properly and timely performed its functions with regard to coordination, analysis and evaluation.



The record in this proceeding amply demonstrates that if the proposed facility is constructed and operated in accordance with the terms of the application and the conditions of certification, the project will not adversely affect the quality or quantity of surface or groundwaters at or near the site and will comply with all state and federal air quality standards and guidelines. Adequate consideration for noise, odors and aesthetic appearance is encompassed within the facility's design and the conditions of certification.

While the intervenor and members of the general public raised many legitimate issues of concern, there was no competent substantial evidence presented to support their apprehensions. Indeed, the evidence presented demonstrates that the proposed project will comply with and even exceed all applicable statutes, rules, regulations and criteria of the State. In addition, there is public benefit to be derived from the proposed environmentally sound method of dealing with the increasing volume of municipal solid waste generated in Pasco County. The need for landfill space in the future will be reduced, as will the needed amount of crude oil to generate electricity. The construction of the facility will add jobs and economic benefits to the community.

The intervenor attempted to establish that another type of solid waste disposal system, such as source separation and recycling, might be preferable, less costly and safer from an environmental and safety point of view. Not only was competent substantial evidence lacking that such a system would be practical, economically feasible or in compliance with

environmental standards, there was no evidence that the attempt to withhold plastics, metals, glass and yard clippings from mass burn incineration would actually reduce expected emissions from the plant's air pollution control system. In addition, neither the intervenor, DER nor the Siting Board can rewrite the application submittal for review. The choice of alternative methods of solid waste disposal lies with the applicant. If the alternative chosen complies with applicable statutes, rules and regulations, the application is entitled to certification.

The intervenor likewise failed to demonstrate that source separation, or the elimination of sources of potential emissions, should be part of the BACT determination for this facility. The air pollution controls proposed -- the dry scrubber, the baghouse and proper operation of and mixing within the combustion units -- will comply with all environmental and safety standards and will constitute an appropriate balance of environmental, economic and energy factors. No evidence was offered to quantify the environmental benefits of the intervenor's source separation proposal, nor was it demonstrated that source separation, recycling or composting would be economically viable, socially acceptable or otherwise reliable on a day-to-day basis.

The concern of the intervenor and several members of the public about the potential for sinkholes at the site was shared and thoroughly investigated by the County's expert consultants.

Their studies, analyses and results were reviewed and concurred with by staff members from DER and SWFWMD. The uncontradicted evidence demonstrates that the site selected is stable, relatively uniform and suitable for the landfill/ashfill and resource recovery facility. Proof rolling and the double liners will further reduce the potential for a large or catastrophic sinkhole at the site. Both the design of the landfill/ashfill and the conditions of certification are intended to provide early warning of any geotechnical emergency or other threat to groundwater.

In conclusion, the applicant Pasco County has amply demonstrated its entitlement to site certification in accordance with the terms of its application and the twenty-two conditions of certification proposed by the DER. The conditions of certification were received into evidence as the applicant's Exhibit 10 and are incorporated and included as a part of this Recommended Order.

#### RECOMMENDATION

Based upon the findings of fact and conclusions of law recited herein, it is RECOMMENDED that the Governor and Cabinet, sitting as the Siting Board, approve the application of Pasco County for site certification of the proposed resource recovery facility at its ultimate site capacity of 29 megawatts, subject to the conditions of certification included within Exhibit 10.

Respectfully submitted and entered this 20<sup>th</sup> day of  
July, 1988, in Tallahassee, Florida.

*Diane D. Tremor*

DIANE D. TREMOR  
Hearing Officer  
Division of Administrative  
Hearings  
The Oakland Building  
2009 Apalachee Parkway  
Tallahassee, Florida 32301  
(904)488-9675

Filed with the Clerk of the  
Division of Administrative  
Hearings this 20<sup>th</sup> day of  
July, 1988.

Copies furnished:

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Tallahassee, FL 32301

Honorable Doyle Conner  
Commissioner of Agriculture  
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Honorable Bill Gunter  
Insurance Commissioner  
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Honorable Betty Castor  
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Honorable Robert Butterworth  
Attorney General  
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APPENDIX  
(Case No. 87-5337)

The parties' proposed findings of fact have been fully considered and are accepted and/or incorporated in this Recommended Order, with the following exceptions:

Pasco County

55 - 57. Rejected as improper factual findings, but discussed in conclusions of law.

DER

34. Insufficient evidence to support the term "indefinitely."

Intervenor

12. Rejected as contrary to the evidence.

14 - 15. Rejected as unsupported by competent, substantial evidence.

21. Second sentence rejected as contrary to the evidence.

22. Accepted as factually correct, but irrelevant to the subject proposal.

24. Rejected as unsupported by competent, substantial evidence.



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Dee  
Sharyn L. Smith  
Director

Ann Cole  
Clerk

July 19, 1988

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Honorable Gerald Lewis  
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Honorable Betty Castor  
Commissioner of Education  
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Honorable Jim Smith  
Secretary of State  
The Capitol  
Tallahassee, FL 32399

RE: Application for Power Plant Site  
Certification of Pasco County Solid Waste  
Resource Recovery Facility  
Case No. 87-5337

Dear Members of the Siting Board:

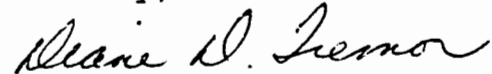
Enclosed is my Recommended Order for the site certification portion of the referenced proceeding. Under separate cover, I am forwarding the three-volume transcript of the hearing, Pasco County's Exhibits 1 through 19, 22A through 22E, and 24, the DER's Exhibits 1 through 4, and the Intervenor's Exhibit 1 to Hamilton S. Oven, Jr., the DER Administrator of the Siting Coordination Section, for future transmittal to the Board.

Copies of this letter will serve to notify the parties that my Recommended Order and the record have been transmitted to you on this date. Pursuant to Section 120.57(1)(b)9, Florida Statutes, the parties are advised that they are allowed to file written exceptions thereto with the Governor and Cabinet, sitting as the Siting Board.

Members of the Siting Board  
Page Two

Please furnish the Division of Administrative Hearings with a copy of the Final Order rendered in this proceeding so that our files will be complete.

Sincerely,



DIANE D. TREMOR  
Hearing Officer

DDT/dfc  
Enclosures as shown

cc: Dale Twachtmann, Secretary, DER  
Hamilton S. Oven, Jr., Administrator  
David S. Dee, Esquire  
Richard T. Donelan, Jr., Esquire  
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For the Department of  
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Tallahassee, FL 32399-2400

For the Southwest Florida  
Water Management District:

Edward B. Helvenston, Esquire  
Southwest Florida Water  
Management District  
2379 Broad Street  
Brooksville, FL 34609-6899

For the Department of  
Community Affairs:

C. Laurence Keeseey, Esquire  
Department of Community  
Affairs  
2740 Centerview Drive  
Rhyne Building  
Tallahassee, FL 32309

For Intervenor Shady Hills  
Park and Civic Association:

William W. Deane, Esquire  
1700 9th Street North, Suite B  
St. Petersburg, FL 33704

#### INTRODUCTION

On November 17, 1987, Pasco County filed an application for approval of a resource recovery facility, landfill/ashfill and associated facilities pursuant to the Florida Electrical Power Plant Siting Act, Sections 403.501, et seq, Florida Statutes (1987). The undersigned presided over the land use hearing on February 16, 1988, to determine whether the site selected for the project was consistent and in compliance with existing applicable land use plans and zoning ordinances. A Recommended Order finding such consistency and compliance was entered on March 25, 1988.

On March 24, 1988, the Shady Hills Park and Civic

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: )  
 )  
Application for )  
Power Plant Site Certification )  
of Pasco County Solid Waste ) CASE NO. 87-5337  
Resource Recovery Facility )  

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 )

RECOMMENDED ORDER

Pursuant to notice, an administrative hearing was held before Diane D. Tremor, Hearing Officer with the Division of Administrative Hearings, on April 11 and 12, 1988, in New Port Richey, Pasco County, Florida. The issue for determination at this certification hearing, held pursuant to Section 403.508(3), Florida Statutes, is whether Pasco County's proposed resource recovery facility, landfill/ashfill and associated facilities are entitled to approval by the Governor and Cabinet, sitting as the Siting Board, in accordance with the Florida Electrical Power Plant Siting Act, Sections 403.501, et seq., Florida Statutes (1987).

APPEARANCES

For the Applicant  
Pasco County:

David S. Dee, Esquire  
Carlton, Fields, Ward,  
Emmanuel, Smith, Cutler, P.A.  
First Florida Bank Building  
215 South Monroe Street  
Suite 410  
Tallahassee, FL 32301

Association, Inc. filed a motion to intervene and participate as a party at the certification hearing. Thereafter, Pasco County moved to strike certain portions of the motion to intervene. After a telephone conference call, the undersigned granted the motion to intervene, but struck those portions of the intervenor's petition which attempted to raise issues beyond the scope of the certification hearing; i.e: the impact of the project upon property values; alternatives to the proposed method of solid waste disposal, except insofar as such alternatives may relate to the Best Available Control Technology; and issues regarding unadopted dioxin standards. The intervenor's post-hearing motion filed on June 7, 1988, to "supplement record, reopen hearing and hear testimony" was denied by separate order filed on June 28, 1988.

In support of its application, Pasco County presented the testimony of Robert Hauser, Jr., accepted as an expert concerning solid waste disposal, including the use of landfills and resource recovery facilities; Donald Elias, accepted as an expert concerning air pollution, including the air emissions from resource recovery facilities; Walter R. Niessen, accepted as an expert concerning resource recovery facilities, including dioxin emissions from such facilities; Clair Fancy, accepted as an expert concerning the regulation of air pollution; Hamilton S. Oven, Jr., the Department of Environmental Regulation's Administrator in charge of the Siting Coordination Section; and Suheil "Jim" Jammal, accepted as an expert in the area of geotechnical investigation, with special emphasis upon sinkholes.

Pasco County's Exhibits 1 through 19, 22A-E, and 24 were received into evidence.

The Florida Department of Environmental Regulation (DER), the Florida Department of Community Affairs (DCA), the Florida Public Service Commission (PSC) and the Southwest Florida Water Management District (SWFWMD) are parties to this proceeding pursuant to Section 403.508(4)(a), Florida Statutes. The DER called one witness, Clair Fancy, and introduced DER Exhibits 1 through 4 without objection. The DCA and SWFWMD did not call any witnesses or proffer any exhibits at the site certification hearing. The PSC made no appearance at the hearing.

Testifying on behalf of the intervenor Shady Hills Park and Civic Association, Inc. were John Parker, accepted as an expert in the area of hydrogeology (as limited to his review of the subject application for certification); Dr. Ernest Dwight Adams, accepted as an expert in physics, as it relates to solid waste management; John James Gallagher, the Pasco County Administrator; and Edward Kooper, accepted as an expert concerning the induced draft combustion process as it relates to foundries. Also, the intervenor's Exhibit 1, the deposition testimony of Gardner Strasser, was received into evidence.

The public comment portion of the certification hearing was conducted on the evening of April 11, 1988. Testifying as members of the general public were Brad Cecil, Irving Siegel, Mike Snider, Gerden M. Monk, Linda Johnson, John Bragg, Linda Almond, Tom Strode, Ruth Kirkman, Betty Tillis, Ernest Longo, David Hausman, John Hausman, Curtis Almond, Regina Longo, Sandra

Lugar, Richard Konst, Julie Sandlin, Steve Robinson, Amelia Bruno, Robin Bragg, Laura Osmundsen, Mary Parino, Michael May, Tom Collins, Terry Waddell, Robert Logan, Angie Almond, Sonya Logan, Lynda Economos, Florence Freudenstein, Mary Mazzuco, Donald Acreman, William Hubbardson, Rosalind Estrin, Carol Lezark and Leslie Diane Acreman. Testifying as members of the general public during other portions of the hearing were Mark D. Goldstein and William F. Belote. Several public comment letters were received into evidence.

Subsequent to the certification hearing, Pasco County, the DER and the intervenor submitted proposed findings of fact and proposed conclusions of law. The SWFWMD adopted the proposals submitted by the DER. To the extent that the parties' proposed findings of fact are not included in this Recommended Order, they are rejected for the reasons set forth in Appendix B hereto.

#### FINDINGS OF FACT

Upon consideration of the oral and documentary evidence presented at the site certification hearing, the following relevant facts are found:

(1) After investigating and evaluating alternative methods of solid waste disposal for several years, Pasco County determined that a mass burn resource recovery (refuse to energy) system was the most prudent long-term method of disposal for Pasco County. In 1984, the citizens of Pasco County approved a "straw ballot" proposal providing for the establishment of a

resource recovery system financed with non-tax supported bonds in lieu of utilizing sanitary landfills as a primary disposal method. (Exhibit 2, at 3-1) In 1987, the Legislature adopted a Special Act (Chapter 87-441, Laws of Florida) which authorized a solid waste disposal and resource recovery system within Pasco County and gave the County exclusive control over the collection and disposal of solid waste generated or brought within the area affected by the special act.

(2) The site selected for the proposed project, as well as the surrounding area, has been fully described and discussed in the Recommended Order entered on March 25, 1988, after the land use hearing. To briefly summarize, the project is to be located on an undeveloped 751 acre parcel of land owned by the County. The site is in an unincorporated area of northwest Pasco County, approximately two and a half miles north of Highway 52 and about four to five miles west of Route 41. It is accessible by Hays Road, which forms part of its southern and western boundaries. The property includes several isolated ponds located west of a Florida Power Corporation transmission line which bisects the property and runs in a north/south direction. The entire proposed project, with the exception of two wells and one retention pond, will be situated east of the power lines. The areas around the site consist primarily of vacant grass lands, small farms and low density residential areas. There is an existing recreational park near the north boundary of the site, and there are existing and proposed schools and parks located within five miles of the site. Aproximately 18,000

people reside within five miles of the site. In addition, there is a Girl Scout camp located about 3 miles from the site and a new development known as the Word of Life Youth Camp and Adult Conference Center being built approximately two miles southwest of the site. The resource recovery facility will be located on the southeastern portion of the site, and will be approximately 2,400 feet from the nearest home, which is located on Hays Road. The facility will be about 4,600 feet from the site's northern boundary and there will be at least 700 feet of buffer between the landfill/ashfill and the northern boundary. Approximately 65% of the site will be maintained as open areas or buffer zones.

(3) No threatened or endangered plant or animal species were discovered on the site; however, the site does provide habitat for a species of special concern - the gopher tortoise. Upon the recommendation of the Florida Game and Fresh Water Fish Commission, the County has agreed to relocate the tortoises to the southwest corner of the site and to work with the Commission in the relocation plan and long term management plan prior to the commencement of clearing activities. See Section XXI of Conditions of Certification.

(4) No significant archaeological or historical sites have been identified as lying within the boundaries of the proposed site.

(5) The proposed project will consist of an access road, a gatehouse/weigh station, an enclosed waste receiving and handling building, an incineration and cooling system, an air pollution control system, a landfill/ashfill, four stormwater

retention ponds, a transmission line from the plant to an on-site Florida Power Corporation substation, and two wells to supply the plant with potable water and to provide an alternative source of cooling water, if needed. The resource recovery system will convert solid waste into electrical power through a combustion process that utilizes a mass burn technology. The ash from the combustion process will be landfilled after metals have been removed. The combustion gases will travel through an acid gas control dry scrubber and a baghouse and be discharged through a stack into the atmosphere. There will not be any significant preprocessing of the refuse at the facility prior to combustion. Waste will be brought to the facility by approximately 90 to 100 trucks per day. All areas where refuse will be handled will be fully enclosed to prevent noise and the escape of dust and odors.

(6) The County is seeking approval of an ultimate site generating capacity of 29 megawatts and an ultimate disposal capacity of 1200 tons per day. Initial plant operation is expected to employ three mass burn furnace units of 350 tons per day capacity each, for a combined capacity of 1,050 tons per day. All of the County's environmental analysis evaluated the impacts of the facility at its ultimate site capacity of 1,200 tons per day.

(7) During normal operation, all of the facility's cooling water will be treated effluent drawn from the County's Hudson subregional wastewater treatment plant. For emergency use, an on-site well will be reserved as an alternative source of cooling water. All wastewater created will be routed back by



pipeline to the Hudson plant for treatment and disposal. No process water from the resource recovery facility will be discharged directly to surface or groundwaters.

(8) A stormwater management system with four retention ponds will be constructed on the site to ensure that the first inch of stormwater is retained for infiltration in 72 hours. The system is designed to ensure that the post-development peak run-off rate from the 25 year, 24 hour storm event will not exceed the predevelopment run-off rate from a similar storm. No wetland areas will be destroyed or otherwise affected by the proposed project.

(9) The proposed resource recovery facility will emit a variety of pollutants into the ambient air. During the application process, the County's consultants worked with the DER and the United States Environmental Protection Agency (EPA) to establish an appropriate plan of study and protocol for assessing the project's air emissions. The data utilized by Pasco County was appropriate and provided a conservative representation of air quality at the site.

(10) Since the facility will emit more than 100 tons per year of carbon monoxide, it is subject to Prevention of Significant Deterioration (PSD) review, which includes a Best Available Control Technology (BACT) review. The facility is expected to emit nine PSD-regulated pollutants in PSD significant amounts. These include the criteria pollutants of particulate matter (PM), sulfur dioxide (SO<sub>2</sub>), nitrogen dioxide (NO<sub>2</sub>), carbon monoxide (CO), volatile organic compounds (VOC), and lead (Pb),

and the non-criteria substances of flourides, sulfuric acid mist and mercury.

(11) The County performed a BACT analysis on a pollutant-by-pollutant basis, and attempted to balance energy, environmental and economic considerations. The air pollution controls proposed represent the BACT for this facility. These include a dry scrubber for the control of acid gases and a baghouse (fabric filter) for the control of particulate matter. Such controls are in accordance with the EPA's current operational guidance policies for a proposed municipal waste combustion source. The County's air quality modeling demonstrates that the operation of a 1,200 ton per day facility will not violate any state or federal guidelines or standards regulating airborne emissions. The anticipated emissions will be substantially less than the Florida Ambient Air Quality Standards.

(12) The incineration of plastics produces hydrochloric acid and yard waste produces nitrous oxide. The intervenor has contended that plastics, metals, glass and yard clippings should be removed from the waste stream before they are incinerated in the resource recovery facility. The County considered source separation and recycling when considering the BACT for this facility. Due to the difficulty of obtaining public cooperation, economic feasibility, reliability on a day-to-day basis, as well as the effectiveness of the dry scrubber and baghouse in removing acid gases and particulate matter, the County concluded that source separation would not be a feasible technique for

controlling emissions in a municipal facility of this size.

While some emissions of pollutants could perhaps be reduced even further by the removal of plastics, yard trash and metals from the waste stream prior to incineration, further reductions in the emissions expected from operations of the County's proposed system would not produce any meaningful benefits and would add considerable costs. The County will, however, continue to investigate recycling and source separation as part of an overall management program.

(13) Pasco County will control dioxin emissions from the facility by maintaining a good, well-mixed combustion system that will maintain a temperature of 1800 degrees fahrenheit for a minimum of one second and through the use of the dry scrubber and baghouse system. The dioxin emissions will be extremely low and of no unacceptable risk to the health of the public.

(14) Hazardous wastes, hospital wastes and infectious wastes will not be permitted at the landfill or the resource recovery facility. If such wastes are discovered, they will be segregated and promptly removed from the site. While small quantities of pesticides or volatile organic compounds may enter the waste stream, the system is designed to handle such small quantities.

(15) The landfill will receive the non-processable waste and the ashfill will receive the ash residue resulting from the combustion of residential and commercial waste. The landfill/ashfill will be operated as a monofill -- i.e., unprocessed refuse will be placed in cells where it can be kept

apart from the incinerator ash. It will be built over a period of 30 years, and will occupy approximately 195 acres of the most favorable portions of the site. The design of the landfill/ashfill includes two separate synthetic liners, two leachate collection systems and sixteen separate cells. The two liner systems will provide two layers of protection for groundwater resources beneath the site. There will be two feet of sand between the ash and the top liner and another twelve inches of sand between the top and bottom liners. Two leachate collection systems will collect and remove any fluids that drain through the refuse. The liner systems are designed to last indefinitely; however, the manufacturers of the liner material provide only a two or three year warranty for materials, workmanship and installation. When a cell is closed, it will receive an impervious cap so that rainfall cannot enter the cell. The weight of a fully loaded cell 100 feet high is expected to cause approximately 15 inches of settlement at the center.

(16) The County's consultants conducted an extensive geotechnical investigation of the subsurface conditions at the site to determine its acceptability for the total facility and to evaluate the site's ability to provide an adequate foundation for the facility. Topographic maps showed some circular depressions within the property boundaries of the landfill/ashfill. Ground penetrating radar revealed some 18 anomalies, and these were all investigated to determine if there were any potentials for sinkholes or subsiding structures on the site. Some 88 borings were installed at the site. The borings demonstrated that the

anomalies were not historic sinkholes and would not adversely affect the landfill/ashfill operation.

(17) The portion of the site deemed most appropriate for the landfill/ashfill is of relatively uniform stratigraphy characterized by a uniform layer of surficial sand, a reasonably continuous clay confining layer from 5 to 15 feet thick, under which lies the limestone groundwater-bearing formation, the Floridan aquifer. The 267 acres deemed acceptable for the construction of the landfill/ashfill is believed by experts to have a low potential for sinkholes. Should a sinkhole occur, it would not be a large or catastrophic sinkhole, but instead would be expected to be no more than 10 to 15 feet in diameter and 4 to 6 feet in depth. The landfill liner is designed to elongate and stretch to accommodate a potential sinkhole of such size. Also, installation of the impervious liners will eliminate surface water recharge to the Floridan aquifer within the landfill boundaries. Since the movement of water through the subsurface contributes to the formation of sinkholes, the liner installation will substantially reduce the likelihood of new sinkholes in that area. As an additional precaution, the County intends to proof roll the area with heavy mechanical equipment prior to the installation of the liner systems. This will trigger subsidence of any collapse-prone sediments in the area. Neither the project's two wells nor other agricultural or private potable wells in the area are expected to affect the development of sinkholes at the site.

(18) The combustion of municipal solid waste will reduce the volume of waste to be landfilled by approximately 70%, and will reduce the County's need for landfill capacity by some 13.5 million cubic yards over a 24-year period. At the same time, the facility will generate at least 182 million kilowatt hours of electricity per year, or 3.7 billion kilowatt hours over the minimum 20 year life of the facility. Electricity will be produced by utilizing materials that otherwise would be buried in a landfill and the use of crude oil will be decreased by some 352,000 barrels per year, saving some \$6.3 million per year. The local economy of the area will benefit from the operation and construction of the facility.

(19) By Order Number 17752, the Florida Public Service Commission granted the petition of Pasco County for a determination of need for its proposed 29 megawatt facility. The Commission found that, although the plant is small, it would contribute to the reliability and integrity of the electric system in peninsula Florida.

(20) The Florida Department of Community Affairs evaluated the compatibility of the proposed project with the applicable goals and policies contained in the State Comprehensive Plan. With certain conditions of certification relating to groundwater monitoring, a contingency plan for the mitigation of any detected leachate leakage and a buffer zone to minimize noise and aesthetic aspects, the Department found the project to be compatible with the State Comprehensive Plan's policies and goals concerning water resources, natural systems

and recreational lands, air quality, energy, hazardous and nonhazardous wastes, land use, public facilities and cultural and historical resources.

(21) The Southwest Florida Water Management District (SWFWMD) evaluated the County's proposal in accordance with its responsibilities regarding the consumptive use of water (the two on-site wells), surface water management and the project's impact on water resources. With certain recommendations regarding the construction and operation of the facility, the SWFWMD recommended approval of the project. Such recommendations have been incorporated into the conditions of certifications.

(22) The County's application for site certification was also reviewed by Florida's Department of Commerce, Department of State, Department of Natural Resources, Department of Agriculture and Consumer Services and Game and Fresh Water Fish Commission. (Exhibits 11-15) Each agency commented favorably on the project with regard to those areas within their jurisdiction and concern. To the extent that recommendations were made and concerns expressed, they have been incorporated into the conditions of certification.

(23) The County's application was thoroughly evaluated by the DER's staff from the Tampa District Office and the Bureaus of Permitting, Groundwater Protection, Air Quality Management, Waste Management, and Laboratories and Special Programs. The DER concluded that the proposed design of the facility offered reasonable assurances that DER standards would be met and

recommended certification of the project subject to the conditions of certification.

(24) Pasco County has stipulated that it will accept and comply with all proposed conditions of site certification, and the evidence demonstrates that the County will be able to do so. The County has not requested any variances from any applicable standards or regulations of any agency for the construction or operation of the proposed facility.

(25) On March 10, 1988, the DER issued a News Release announcing its intent to recommend approval of the County's proposed project and advising of the certification hearing scheduled to commence on April 11, 1988. Notice of the site certification hearing was also published on March 11, 1988, in both the Florida Administrative Weekly and the Pasco Times, a daily newspaper published at Port Richey in Pasco County. In addition, notice of the DER determination of Best Available Control Technology (BACT) to minimize air pollutant emissions from the proposed facility was published in the Florida Administrative Weekly on March 4, 1988. Copies of the County's application and notice of the DER's proposed agency action were also provided to the United States EPA, the Federal Land Manager, the Tampa Bay Regional Planning Council and other persons and agencies entitled to notice pursuant to the DER's rules.

(26) Forty-one non-party members of the general public testified at the site certification hearing in opposition to the County's proposed resource recovery facility project. Although an evening session was set aside for this purpose, most of these



citizens attended all or most of the formal presentation of evidence by the parties to this proceeding. The public comment and concern covered a wide range of issues, most of which were addressed at the hearing, in this Recommended Order and in the prior Recommended Order entered after the land use hearing. The concerns of the public included water quality and concerns for the Floridan aquifer, zoning; recreational activity in the vicinity of the project; dust from increased traffic; alternative methods of waste management, including source separation, recycling, and composting; toxic emissions and other forms of air pollution; flooding and stormwater management; the integrity and reliability of the proposed landfill/ashfill liners; the impact upon property values in the area; the safe operation of the facility; health hazards; fire protection; sinkholes; lack of opportunity for public input into the County's decision-making process; endangered wildlife; aesthetics; and the costs of resource recovery and waste disposal to the citizens of Pasco County.

#### CONCLUSIONS OF LAW

This proceeding is governed by the Florida Electrical Power Plant Siting Act, Sections 403.501, et seq. Florida Statutes (1987), as well as the rules and regulations contained in Chapter 17-17 and 17-2 of the Florida Administrative Code. The Act sets forth a uniform review procedure whereby state and local concerns are coordinated and decisions can be reviewed on the basis of the standards and recommendations of the various

deciding agencies. It is intended that the need for a particular facility will be balanced against the effects of its location and operation upon "human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic life." Section 403.502, Florida Statutes.

Here, the PSC has determined that there is a need for the proposed solid waste resource recovery facility. In order to balance that need against the environmental impacts resulting from the construction and operation of such a facility, the County retained the services of highly qualified consultants to investigate and devise a system that would produce no adverse effects upon human health or the environment. Pasco County has presented competent substantial evidence that its proposed state-of-the-art design and methods of operation for the resource recovery facility, the landfill/ashfill and associated facilities at the proposed location will satisfy the criteria and balancing test required by the Legislature. All of the reports, studies and comments from the various state and regional agencies confirm such conformance and compliance with applicable standards and regulations, provided that the conditions of certification are met. Pasco County has confirmed its willingness and its ability to comply with such conditions.

The application process was conducted in accordance with the procedural requirements of Chapter 403, Part II, Florida Statutes, and all notice requirements were met. The DER properly and timely performed its functions with regard to coordination, analysis and evaluation.

The record in this proceeding amply demonstrates that if the proposed facility is constructed and operated in accordance with the terms of the application and the conditions of certification, the project will [not] adversely affect the quality or quantity of surface or groundwaters at or near the site and will comply with all state and federal air quality standards and guidelines. Adequate consideration for noise, odors and aesthetic appearance is encompassed within the facility's design and the conditions of certification.

\* While the intervenor and members of the general public raised many legitimate issues of concern, there was no competent substantial evidence presented to support their apprehensions. Indeed, the evidence presented demonstrates that the proposed project will comply with and even exceed all applicable statutes, rules, regulations and criteria of the State. In addition, there is [public benefit] to be derived from the proposed environmentally sound method of dealing with the increasing volume of municipal solid waste generated in Pasco County. The need for landfill space in the future will be reduced, as will the needed amount of crude oil to generate electricity. The construction of the facility will add jobs and economic benefits to the community.

Vic → Q<sub>sub</sub> → The intervenor attempted to establish that another type of solid waste disposal system, such as source separation and recycling, might be preferable, less costly and safer from an environmental and safety point of view. Not only was competent substantial evidence lacking that such a system would be practical, economically feasible or in compliance with

environmental standards, there was no evidence that the attempt to withhold plastics, metals, glass and yard clippings from mass burn incineration would actually reduce expected emissions from the plant's air pollution control system.<sup>STOP</sup> In addition, neither the intervenor, DER nor the Siting Board can rewrite the application submittal for review. The choice of alternative methods of solid waste disposal lies with the applicant. If the alternative chosen complies with applicable statutes, rules and regulations, the application is entitled to certification.

<sup>STOP</sup> → The intervenor likewise failed to demonstrate that source separation, or the elimination of sources of potential emissions, should be part of the BACT determination for this facility. The air pollution controls proposed -- the dry scrubber, the baghouse and proper operation of and mixing within the combustion units -- will comply with all environmental and safety standards and will constitute an appropriate balance of environmental, economic and energy factors. No evidence was offered to quantify the environmental benefits of the intervenor's source separation proposal, nor was it demonstrated that source separation, recycling or composting would be economically viable, socially acceptable or otherwise reliable on a day-to-day basis. STOP —

The concern of the intervenor and several members of the public about the potential for sinkholes at the site was shared and thoroughly investigated by the County's expert consultants.

Their studies, analyses and results were reviewed and concurred with by staff members from DER and SWFWMD. The uncontradicted evidence demonstrates that the site selected is stable, relatively uniform and suitable for the landfill/ashfill and resource recovery facility. Proof rolling and the double liners will further reduce the potential for a large or catastrophic sinkhole at the site. Both the design of the landfill/ashfill and the conditions of certification are intended to provide early warning of any geotechnical emergency or other threat to groundwater.

In conclusion, the applicant Pasco County has amply demonstrated its entitlement to site certification in accordance with the terms of its application and the twenty-two conditions of certification proposed by the DER. The conditions of certification were received into evidence as the applicant's Exhibit 10 and are incorporated and included as a part of this Recommended Order.

#### RECOMMENDATION

Based upon the findings of fact and conclusions of law recited herein, it is RECOMMENDED that the Governor and Cabinet, sitting as the Siting Board, approve the application of Pasco County for site certification of the proposed resource recovery facility at its ultimate site capacity of 29 megawatts, subject to the conditions of certification included within Exhibit 10.

Respectfully submitted and entered this 20<sup>th</sup> day of  
July, 1988, in Tallahassee, Florida.

*Diane D. Tremor*

DIANE D. TREMOR  
Hearing Officer  
Division of Administrative  
Hearings  
The Oakland Building  
2009 Apalachee Parkway  
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(904)488-9675

Filed with the Clerk of the  
Division of Administrative  
Hearings this 20<sup>th</sup> day of  
July, 1988.

Copies furnished:

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Tallahassee, FL 32301

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Commissioner of Agriculture  
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Honorable Bill Gunter  
Insurance Commissioner  
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Honorable Betty Castor  
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APPENDIX  
(Case No. 87-5337)

The parties' proposed findings of fact have been fully considered and are accepted and/or incorporated in this Recommended Order, with the following exceptions:

Pasco County

55 - 57. Rejected as improper factual findings, but discussed in conclusions of law.

DER

34. Insufficient evidence to support the term "indefinitely."

Intervenor

12. Rejected as contrary to the evidence.

14 - 15. Rejected as unsupported by competent, substantial evidence.

21. Second sentence rejected as contrary to the evidence.

22. Accepted as factually correct, but irrelevant to the subject proposal.

24. Rejected as unsupported by competent, substantial evidence.



Best Available Copy

8-11-88  
Tallahassee, FL

*you may*

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

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RECEIVED

PLEASE REPLY TO:

August 10, 1988

AUG 12 1988

Tallahassee

C. H. Fancy, P.E.  
Deputy Chief  
Bureau of Air Quality Management  
Department of Environmental  
Regulation  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

DER-BAQM

Re: Pasco County Resource Recovery Facility  
PSD-FL-127

Dear Mr. Fancy:

On behalf of Pasco County, we have reviewed the Department's draft PSD permit for the Pasco County resource recovery facility. Our comments concerning the draft permit are set forth below.

1. On page 1 of the draft permit, the latitude and longitude should be modified because they are different than the coordinates presented in Pasco County's application for site certification.

2. On page 5, Specific Condition No. 1.b. should be modified to state that the maximum throughput "shall not exceed 115% of either the design MSW charging rate of 350 TPD or the heat input rate of 140 MMBtu/hr." The Department has historically authorized resource recovery facilities to operate at a throughput up to 115% of the design capacity. This practice is recognized in the Conditions of Certification for Pasco County which authorize a throughput of 115% of the design capacity. See Conditions of Certification, page 11, §XIV., ¶ A.1.c. We believe this condition should be changed because it is extremely important for the County to have the ability to operate at a throughput up to 115% of the nameplate capacity.

3. On page 6, Specific Condition No. 2.b. refers to 90% removal of "acid gases." To avoid confusion, it should be changed to refer to hydrogen chloride (HCL).

C. H. Fancy  
Page Two  
August 10, 1988

No

4. On page 6, Specific Condition No. 3.a. should refer to a particulate emission limit of 0.015 grains/dscf, rather than 0.0150 grains/dscf.

5. On page 8, the Specific Conditions contain a table of projected emissions. Our calculations indicate that the projected emissions for mercury will be 0.112 lbs/hr, rather than 0.105 lbs/hr.

6. On page 9, Specific Condition No. 4.e. should be modified to indicate that compliance tests shall be conducted at +10% of the nameplate BTU rating (i.e., 140 million BTU). As written, the draft condition suggests that a compliance test must be conducted precisely at the maximum capacity. We believe it is very important to modify this condition because it implies that there can be no flexibility in the operating conditions at the time of the compliance test.

No

7. On page 10, Specific Condition No. 5 requires continuous emission monitors for various substances, including oxygen. The conditions of certification for the Pasco County facility do not require a continuous emission monitor for oxygen. See Conditions of Certification at page 12, §XIV., ¶A.3.a. Accordingly, we believe the requirement for an oxygen monitor should be deleted from the draft permit.

Check with EPA

8. On page 11, Specific Condition No. 6.a. requires continuous monitoring of the furnace exit gas temperatures. We do not know precisely where DER wants the monitor to be located for the furnace exit gas, but we assume that the monitor should be located at the economizer outlet. If our assumption is correct, we have no objections to this requirement.

Thank you for providing us with this opportunity to submit comments concerning the draft permit. Please call us if you have any questions.

Maximum mixing height  
1800' =

Sincerely,  
*David S. Dee*  
David S. Dee

cc: Ben Harrill  
John Gallagher  
Bob Hauser  
Don Elias

DSD/vc:FANCY  
Copied: Pradeep Rawal,  
John Rogers  
Bill Thomas, SW Dist  
Bruce Miller, EPA  
Margaret Adams, NPS  
C/HF/BT

*Barry Andrews*

David

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

ATTORNEYS AT LAW

ONE HARBOUR PLACE

P. O. BOX 3239

TAMPA, FLORIDA 33601

(813) 223-7000

FIRSTSTATE TOWER

P. O. BOX 1171

ORLANDO, FLORIDA 32802

(407) 849-0300

HARBOURVIEW BUILDING

P. O. BOX 12426

PENSACOLA, FLORIDA 32582

(904) 434-0142

FIRST FLORIDA BANK BUILDING

P. O. DRAWER 190

TALLAHASSEE, FLORIDA 32302

(904) 224-1585

PLEASE REPLY TO:

August 12, 1988

Tallahassee

HAND DELIVER

Sally Munroe  
Chief Cabinet Aide  
Office of the Governor  
Suite 210  
The Capitol  
Tallahassee, Florida 32399

Re: Pasco County Resource Recovery Facility

Dear Ms. Munroe:

On August 10, 1988, you asked me several questions concerning the Pasco County resource recovery facility. I am sending you this letter and the attached documents in response to your questions.

I. DER's Dioxin Study at Pinellas RRF

Pasco County and the Department of Environmental Regulation (DER) evaluated the potential dioxin emissions from the proposed Pasco County resource recovery facility and concluded that those emissions would not have any significant impacts on public health. Their conclusion is supported by recent test data that have been collected by the United States Environmental Protection Agency (EPA) and DER. In 1987 EPA submitted a multi-volume report to Congress that contained data concerning resource recovery facilities located around the world. EPA found that there is no unacceptable health risk associated with a modern, well-designed resource recovery facility, like the one proposed for Pasco County.

DER has been involved in two major studies of dioxin emissions. DER joined seven other states that funded an extensive study in Pittsfield, Massachusetts. DER also spent approximately \$125,000 and worked with the State of California to

measure the dioxin and other emissions at the Pinellas County resource recovery facility. DER found that the emissions of dioxins and other substances at the Pinellas plant were very small and posed no significant risk to the public.

Pasco County's emissions will be much less than Pinellas County's emissions. Pinellas County's plant is three times larger than Pasco County's proposed plant. Moreover, Pasco County will use newer and better pollution control equipment to limit its emissions. For these reasons, the dioxin emissions from Pasco County's proposed resource recovery facility should be much less than the dioxin emission at Pinellas County's plant, which were deemed insignificant.

The Executive Summary from DER's study of the Pinellas County facility was introduced into evidence at the administrative hearing. A copy of the Executive Summary is attached hereto for your review.

DER's perspective about dioxins and other air quality issues is set forth in pages 196-230 of the transcript from the administrative hearing.

## II. Editorial in Pasco Times Newspaper

On August 4, 1988, the Pasco Times newspaper, the local version of the St. Petersburg Times, published an editorial concerning a candidate for the Pasco County Commission and his interest in composting, rather than resource recovery. In pertinent part, the editorial states:

With the county wrapping up years of research into its planned disposal system which would burn up to 1,050 tons of garbage a day and generate electricity for sale to help pay off construction bonds, Pozesny and his followers stand ready to chuck it all for something that they only think may be better and cheaper.

\*

\*

\*

If Pozesny was so civic minded and concerned about the county's planned resource recovery project, why didn't he get involved in the issue before he became a candidate? He's been in the area for several years and surely has read how the county's only landfill is rapidly running out of space.

\*

\*

\*

Sally Munroe

Page Three

August 12, 1988

The county's professional staff and consultants are aware of the composting business, and they have some well-founded concerns. While some opponents of incineration and some opportunistic politicians might want residents to think otherwise, there has been careful study of what will be the most ambitious public works project ever in Pasco County. (emphasis in original)

We believe this editorial reflects the opinion of those who do not live next to the site or have other personal interests at stake. A copy of the editorial is attached for your review.

### III. 1988 Solid Waste Legislation

The 1988 Florida Legislature adopted a bill (CS for CS for SB 1192) which addressed a wide variety of solid waste issues. The provisions of Senate Bill 1192 will complement the County's plans for its resource recovery project. Pasco County is not exempt from the requirements of SB 1192.

SB 1192 addresses several issues raised by the Shady Hills Park and Civic Association, Inc. (Intervenor), which wants Pasco County to abandon its plan to build a resource recovery facility. Intervenor wants to utilize recycling and composting as the ultimate method of waste disposal. This approach is not viable, however, because there are no existing recycling programs anywhere in the world that can dispose of 100% of the waste. Recycling and composting only eliminate a maximum of 30% of the waste. SB 1192 recognizes this fact. It requires all counties, including Pasco, to implement recycling programs, but it only calls for reduction of 30% of the waste stream by 1994. The remaining 70% must be landfilled or incinerated in a resource recovery facility.

Pasco County has always planned to collect and recycle ferrous metals. The County also has studied recycling programs and SB 1192 requires Pasco County to start a recycling program by July 1, 1989. The recycling program must remove a majority of the newspapers, aluminum cans, glass and plastic bottles from the waste stream. This program will be in effect for at least two years before Pasco County's resource recovery facility starts commercial operations in 1991. Thus, the Intervenor's request for a recycling program will become a reality.

Sally Munroe  
Page Four  
August 12, 1988

The Intervenor's concern about the ash from resource recovery facilities is addressed by SB 1192, which requires DER to adopt rules governing the disposal of ash. DER must initiate the rule-making process and conduct at least one public hearing by February 1, 1989. DER's rules concerning ash disposal should be in effect long before Pasco County's resource recovery facility begins operation in 1991.

SB 1192 provides that the Department of Transportation must conduct demonstration projects by January 1, 1990, to evaluate the use of ash as a road base in highway construction projects. Where appropriate, DOT must modify its construction specifications to encourage the use of recycled materials, including ash. If DOT's tests are successful, Pasco County may be able to use the ash for road construction and thus the County may be able to reduce the amount of ash that is placed in the landfill.

SB 1192 instructs the Florida Public Service Commission to establish rules concerning the purchase of energy by electric companies from resource recovery facilities. Under the new rules, Pasco County should be able to earn more money for the electricity that it generates than is currently being paid for electricity from other refuse-to-energy facilities.

SB 1192 requires DER to adopt rules establishing the minimum qualifications for the operators of landfills and resource recovery facilities. A person may not operate a solid waste management facility after January 1, 1990 unless he has completed an operator training course approved by DER. DER's rules and the operator training program will be in place before Pasco County uses its landfill or resource recovery facility.

The Department of Community Affairs found that the proposed resource recovery facility is consistent with the existing State Comprehensive Plan. SB 1192 amends the State Comprehensive Plan to require a 30% reduction in the volume of solid waste for disposal by 1994. In addition, all counties must have county-wide solid waste disposal systems by 1994. These requirements are consistent with Pasco County's plan for its solid waste management.

#### IV. Draft SWFWMD Report

Intervenor filed a motion with the Hearing Officer and alleged that Pasco County and the Southwest Florida Water Management District (SWFWMD) should have introduced a draft SWFWMD report into evidence at the final administrative hearing in April, 1988. Pasco County, the Department of Environmental Regulation (DER), and SWFWMD strenuously objected to the Intervenor's motion because Intervenor's allegations were totally misleading, factually unfounded, and legally erroneous. The Hearing Officer agreed and denied the motion.

The controversy focused on a draft report and recommendations prepared by John Parker, a SWFWMD hydrologist, employee on February 10, 1988. At the County's request, Parker agreed to modify his recommendations and issue an amended report. On February 23, 1988, the SWFWMD Governing Board held a regular public meeting to discuss the District's business, including three SWFWMD staff reports concerning the proposed Pasco County resource recovery facility. The Board was advised about Parker's draft report, the amended report, the staff's recommendations and the concerns that had been raised by the County. The Governing Board questioned its attorney, its staff, and me about those issues. The Governing Board also discussed the recharge features of the County's site. The Governing Board then unanimously approved the amended report, which stated that the Governor and Cabinet should approve the County's project.

On April 11 and 12, 1988, a formal administrative proceeding was conducted to evaluate Pasco County's facility. On April 12, 1988--48 days after the SWFWMD Governing Board approved the amended report--Intervenor called John Parker as Intervenor's first witness. Intervenor questioned Parker at length about all of the material statements in the amended report and all of Parker's recommendations.

Neither Pasco County, DER, SWFWMD, or Intervenor introduced the draft report into evidence. The draft report had not been approved by the SWFWMD Governing Board and it did not contain SWFWMD's official recommendation. If Intervenor thought the draft report was important, the Intervenor could have and should have introduced the draft report into evidence or questioned Parker about it.

Sally Munroe  
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Intervenor's legitimate concerns were addressed at SWFWMD and the final hearing. The SWFWMD staff and Governing Board concluded that SWFWMD's amended report contains recommendations that are adequate to protect the public welfare. Intervenor has not presented any competent evidence to the contrary.

All of these issues are thoroughly discussed in the following documents which have been attached hereto for your review:

1. Intervener's [sic] Motion to Supplement Record, Reopen Hearing, and Hear Testimony.
2. Pasco County's Response In Opposition To Intervenor's Motion To Supplement Record And Reopen Hearing;
3. Department of Environmental Regulation's Response in Opposition to Intervenor's Motion to Supplement Record;
4. Southwest Florida Water Management District's Response to Intervenor's Motion to Supplement Record, Reopen Hearing, and Hear Testimony; and
5. Hearing Officer's Order on Intervenor's Motion to Supplement Record, Reopen Hearing, and Hear Testimony.

Also enclosed for your review are excerpts from the transcript of the administrative hearing on April 12, 1988. The excerpts contain John Parker's testimony at the hearing. We believe these documents clearly demonstrate that the Intervenor's allegations about Parker's draft report are completely without merit.

#### V. Recharge Area

Intervenor has made much ado about the fact that the County's site is located in a recharge area. However, Intervenor ignores the fact that virtually all of Pasco County is a recharge area, except for the swamps and creeks. Intervenor also ignores the fact that the County's consultants, the Department of Environmental Regulation, and the Southwest Florida Water Management District have been well aware of this issue and have carefully evaluated its significance. The issue also was discussed at length by the SWFWMD Governing Board before the Governing Board unanimously approved this project and recommended its approval by the Governor and Cabinet.



Sally Munroe  
Page Seven  
August 12, 1988

The location of the site is not as significant as Intervenor suggests because the County has carefully designed its project to utilize the best portions of the site and to provide the greatest possible protection for groundwater. The County will provide two synthetic liners and two leachate collection systems beneath the landfill. The two liners will provide two separate shields or levels of protection for the groundwater. Even if we assume a worse case scenario, any fluid (leachate) leaking from the first liner would be detected, collected, and removed from the second liner without affecting the groundwater. The secondary (lower) leachate collection system will be monitored weekly for the presence of any fluids that would indicate leakage from the primary (upper) liner.

In addition, beneath the liner there is a layer of sandy soil and then a layer of at least 5 to 15 feet of clay that will separate the landfill from the potable Floridan Aquifer. The clay will impede the downward migration of fluids and will help confine them to the sandy soil beneath the landfill. A network of monitoring wells will be installed and used to detect any pollutants that might escape from the landfill. If any leachate is detected, Pasco County will implement a contingency plan which calls for the immediate expansion of a monitor well network, the repair of the liner system, and other appropriate remedial action. Thus, the County, DER, and SWFWMD have carefully considered worst-case scenarios and taken appropriate steps to ensure that any potential problem would be detected and corrected before it had any significant impacts.

#### VI. Proposals by Vendors

Pasco County received five bids by vendors that want to build the proposed resource recovery facility. On August 10, 1988, the County eliminated three vendors from further consideration. The County will soon begin negotiations with one or both of the remaining vendors.

The two remaining vendors are Westinghouse and Ogden-Martin, the company that built and operates the Hillsborough County resource recovery facility. Enclosed for your review are copies of the executive summaries submitted by Westinghouse and Ogden-Martin. These summaries contain the companies' architectural designs for the Pasco County facility. The artists' drawings show that both companies, like Pasco County, are committed to building an attractive and aesthetically pleasing facility.

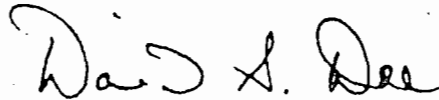
Sally Munroe  
Page Eight  
August 12, 1988

VII. Site Visit

As you know, Hillsborough County has a mass burn resource recovery facility that is similar to the facility that has been proposed for Pasco County. At your request, we have made arrangements for you and the other Cabinet Aides to visit Hillsborough County's facility on August 16, 1988. We will meet you at the Tampa International Airport and provide ground transportation. It will take approximately 30 minutes to drive from the Tampa International Airport to the Hillsborough County resource recovery facility and approximately 1 1/2 hours to inspect the facility. You should dress comfortably because we will be walking in areas that are not air conditioned.

I hope this information is helpful to you. Please call me if I can provide you with any additional information about the Pasco County resource recovery facility.

Sincerely,



David S. Dee

DSD/vc:Pasco-cab

cc: Will Abberger (w/attachments)  
Gene Adams (w/attachments)  
Charles Blair (w/attachments)  
Jimmie Henry (w/attachments)  
Mary Lou Rajchel (w/attachments)  
Pat Smith (w/attachments)  
James Flack (w/o attachments)  
John Griffin (w/o attachments)  
John Guthrie (w/o attachments)  
Mark Ives (w/o attachments)  
Ben Harrill (w/o attachments)  
John Gallagher (w/o attachments)  
Bob Hauser (w/o attachments)

AUG 22 1988

PASCO COUNTY RESOURCE RECOVERY FACILITY

DER-BAQM

Pasco County wants to build a resource recovery (refuse-to-energy) facility, landfill/ashfill, and associated facilities on an undeveloped 751 acre site which is located in an unincorporated portion of Pasco County. A hearing officer found, and the Governor and Cabinet agreed, that the proposed project is consistent and in compliance with all of the applicable land use regulations. On April 11 and 12, 1988, a formal administrative hearing was conducted to evaluate the environmental impacts of the County's proposed project. On July 20, 1988, the Hearing Officer entered a Recommended Order which found that the Governor and Cabinet should approve the County's proposed project.

Pasco County's resource recovery facility, landfill/ashfill, and associated facilities will utilize a state-of-the-art design to strictly limit any potential environmental impacts. The County will use a dry scrubber to control acid gases and a baghouse to control particulate emissions from the facility. DER and EPA agree that a dry scrubber and baghouse constitute the Best Available Control Technology (BACT) for the airborne emissions from the resource recovery facility. The airborne emissions from the facility will be 2% or less of any applicable state or federal air quality standard. These emissions will not have any significant impacts on the public health or welfare.

The geology of the site, including the potential for sinkholes, has been thoroughly evaluated by the County's consultants. They have concluded that subsurface conditions at the site are stable and suitable for the proposed project. The County's geotechnical evaluation of the site was conducted in close coordination with the Florida Department of Environmental Regulation. The County's conclusions about the site have been approved by DER, the Department of Natural Resources, and the Southwest Florida Water Management District.

The County's state-of-the-art design for the landfill/ashfill far exceeds any applicable state or federal requirements. It includes two synthetic liners, two leachate collection systems, and a groundwater monitoring system. It will provide two separate layers of protection for the groundwater.

Approximately 65% of the site will be maintained as open areas or buffer zones. No threatened or endangered species were discovered on the site. No wetlands, archaeological sites, or historical areas will be affected by the project. There will not be any discharges of wastewater into any surface or groundwaters.

The County's resource recovery facility will provide an environmentally sound method of solid waste disposal. It also will generate at least 3.7 billion kilowatts of electricity during its useful life. It will decrease the use of crude oil by \$6.3 million per year. It will reduce the need for new landfill capacity by 13.5 million cubic yards.

The County's project has been recommended for approval, subject to conditions, by all of the regulatory agencies that have reviewed it, including the Department of Environmental Regulation, the Department of Natural Resources, the Southwest Florida Water Management District, the Department of Community Affairs, the Department of State, the Department of Agriculture, the Department of Commerce, the Public Service Commission, the Florida Game and Fresh Water Fish Commission, and the United States Environmental Protection Agency. Pasco County has agreed to accept and comply with all of the recommendations made by these agencies.

The County's project has been opposed by the Shady Hills Park and Civic Association, Inc., which intervened in the administrative hearing and raised a variety of issues. The Civic Association primarily argues that: (a) Pasco County should be required to segregate the garbage before incineration; (b) the geology of the site is not appropriate for the proposed facility; and (c) the facility should be located somewhere else. These arguments were considered and rejected by the Hearing Officer. The evidence of record overwhelmingly supported Pasco County's application. There was no competent substantial evidence to support the Intervenor's allegations.

DSD/vc:PASCOCOUNT

NOTICE OF PUBLIC MEETING

The Department of Environmental Regulation announces a public meeting of the Governor and Cabinet on the following item:

TIME: ~~August 23, 1988, 9:00 a.m.~~

PLACE: Cabinet Meeting Room, The Capitol - lower level, Tallahassee, Florida.

PURPOSE:

1. The Governor and Cabinet sitting as Siting Board will consider pursuant to the Florida Power Plant Siting Act, Section 403.508(2), F.S., a Recommended Order recommending that Pasco County's application for site certification of its proposed resource recovery plant and associated facilities be approved.

For a copy of the agenda please contact Buck Oven, Department of Environmental Regulation, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, (904)487-2522.

CABINET AIDES BRIEFING: On Wednesday, August 17, 1988, there will be a meeting of the aides to the Governor and Cabinet Members at 9:00 a.m. in the Governor's Conference Room, Plaza Level, The Capitol. The purpose of the briefing is to review and gather information regarding this item for consideration by the Board.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION IV  
345 Courtland Street, N.E.  
ATLANTA, GA 30308

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Wallaheese, FL

Wayne Aronson PHONE: 2864

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C. H. Essey, Deputy Bureau Chief  
Florida Department of Environmental  
Regulation  
Towers Office Building  
18 Blair Stone Road  
Tallahassee, Florida 32399-2400

Pasco County Resource Recovery Facility (PSD-FL-127)

Re Mr. Essey:

Our office has reviewed the draft permit and the preliminary determination of stage for the proposed construction of the Pasco County Resource Recovery Facility (RRF), as well as the letter to your office from David Dec of the Carlton, Fields, Ward, Emmanuel, Smith and Cutler law firm. The permit was reviewed under the Region IV Overview of State programs policy. We offer the following comments:

Air Permit

In order for the permit to be more sufficient and enforceable, additional permit conditions are necessary for the flue gas emissions of each source. It is our policy that, for criteria pollutants, emission limits should specify the same averaging times as are indicated in the National Ambient Air Quality Standards (NAAQS). For example, your draft permit specifies that an eight-hour rolling average be used in determining the emission limits for carbon monoxide. Because the NAAQS for carbon monoxide was determined by using an eight-hour and a one-hour averaging times, we recommend the use of both averaging time standards in your permit. Likewise, for sulfur dioxide, a 24-hour and a three-hour average need to be specified.

Concerning the permit's emission limit for nitrogen oxides (0.643 lb/MBTU), this limit exceeds values specified in other permits for municipal waste incinerators in Florida. Therefore, we do not consider this limit to represent BACT. For example, similar emission sources in Florida specify emission limits for nitrogen oxides (NO<sub>x</sub>) without de-NO<sub>x</sub> controls at approximately 0.051 lb/MBTU.

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Additional information is also needed in your discussion of compliance testing. When designating the test method to be used for compliance testing, you must specify which versions of 40 CFR Parts 60 and 61 are to be used. Also, for pollutants not subject to New Source Performance Standards (NSPS), you must indicate each pollutant's sample volume, sampling time, and the number of test runs for each test method to be used. Concerning the Pasco County RRF permits, sampling times, test methods, etc., need to be specified for the following pollutants: Sulfur Dioxide, Nitrogen Oxides, Lead, Fluoride, Mercury, and Beryllium.

#### Public Notice

The public notice did not mention that toxics or unregulated pollutants were considered in determining BACT for this source. This causes the public notice to be deficient. However, if a public hearing was held and the public was informed of potential air toxic pollutants that would be emitted from the facility, then that would satisfy our concerns of a deficient public notice.

#### Determination

We do not feel that the BACT analysis for NO<sub>x</sub> was properly performed as insufficient arguments were given for not choosing the "top" control technology. We request that additional information be provided which shows unique and convincing arguments as to why NO<sub>x</sub> controls cannot be applied to this source. Based on the information we received, the cost to control NO<sub>x</sub> may be reasonable. Also, your argument that BACT analysis for NO<sub>x</sub> is not necessary because the ambient impact of increased NO<sub>x</sub> is not significant is completely unacceptable. The use of air quality modeling results to justify not using a certain level of BACT is also unacceptable. Ambient impacts do not drive the BACT determination. Ambient impacts only serve as a check to ensure that NAAQS and increments are met once a level of BACT is chosen.

Prepared from Barton, Fields, Ward, Emmanuel, Smith and Cutler Offices - Attorneys at Law

Item 7 states that the requirement for an oxygen monitor should be deleted from Pasco County's draft permit; however, EPA's policy dictates that oxygen concentrations of exhaust gases be monitored continuously (see EPA memorandum on Operational Guidance on Control Technology for New and Modified Municipal Waste Combustors, dated June 26, 1987).



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In item 8, it was assumed that the temperature probe would be located after the economizer. This is unacceptable. The location selected for measuring combustion temperatures should be based on sound engineering analysis and is usually as close as possible to the "fully mixed height," or the point beyond the final air addition where complete mixing should have occurred. We request that this point be clarified with Pasco County and the location of the temperature probe be indicated in the permit, if possible.

Thank you for the opportunity for providing our input. If you have any additional information or comments, please contact me or Karrie-Jo Shell my staff at (404) 347-2864.

Sincerely yours,

*Steve J. Adams - Acting for*

Steve P. Miller, Chief  
Programs Branch  
Air, Pesticides, and Toxics  
Management Division

NOTICE OF CERTIFICATION HEARING ON AN APPLICATION TO CONSTRUCT  
AND OPERATE AN ELECTRICAL POWER PLANT ON A SITE TO BE LOCATED  
NEAR NEW PORT RICHEY, FLORIDA

1. Application number PA 87-23 for certification to authorize construction and operation of an electrical power plant near Port Richey, Florida, is now pending before the Department of Environmental Regulation, pursuant to the Florida Electrical Power Plant Siting Act, Part II, Chapter 403, F.S.

2. The proposed 751 acre resource recovery site is located in the northwestern portion of unincorporated Pasco County. The site is approximately two and one-half miles north of State Road 52. It is bounded on the west and south by Hayes Road, on the east by Shady Hills Road, and on the north by Blue Bird Lane. Florida Power Corporation has a 295-foot wide transmission line right-of-way crossing the site. Initially the site will house a 900 tons per day solid waste burning resource recovery facility. The power plant will ultimately be expanded to 1200 tons per day generating 29 MW of electricity.. A short transmission line will connect to an existing FPC substation to the southwest of the facility.

3. The Department of Environmental Regulation has evaluated the application for the proposed power plant and intends to recommend approval of the project subject to conditions of certification. Certification of the plant would allow its construction and operation. The application and Staff Analysis Report are available for public inspection at the addresses listed below:

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION  
Twin Towers Office Building  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL REGULATION  
Southwest District Office  
4520 Live Oak Fair Boulevard  
Tampa, Florida 33610-7347

PASCO COUNTY UTILITIES DIVISION  
7536 State Street  
New Port Richey, Florida 33553

SOUTHWEST FLORIDA WATER MANAGEMENT DISTRICT  
2379 Broad Street  
Brooksville, Florida 34609-4097

4. Pursuant to Section 403.508, Florida Statutes, the land use and zoning public hearing will be held by the Division of Administrative Hearings on February 16-17, 1988, at 9:00 a.m.,

Pasco-Hernando Community College Auditorium, 7025 State Road 587, New Port Richey, Florida 34654, Florida, to determine whether or not the site is consistent and in conformance with existing land use plans and zoning ordinances. No other issues will be heard at this land use and zoning hearing. A subsequent public hearing will be held to consider environmental and other impacts prior to final action by the Governor and Cabinet.

5. Pursuant to 403.508(4), F.S.: "(a) Parties to the proceeding shall include: the applicant; the Public Service Commission; the Division of State Planning; the water management district as defined in Chapter 373, in whose jurisdiction the proposed electrical power plant is to be located; and the Department. (b) Upon the filing with the Department of a notice of intent to be a party at least 15 days prior to the date set for the land use hearing, the following shall also be parties to the proceeding:

1. Any county or municipality in whose jurisdiction the proposed electrical power plant is to be located.

2. Any state agency not listed in paragraph (a) as to matters within its jurisdiction.

3. Any domestic non-profit corporation or association formed in whole or in part to promote conservation or natural beauty; to protect the environment, personal health, or other biological values; to preserve historical sites; to promote

consumer interests; to represent labor, commercial or industrial groups; or to promote orderly development of the area in which the proposed electrical power plant is to be located.

(c) Notwithstanding paragraph (4)(d), failure of an agency described in subparagraphs (4)(b)1 and (4)(b)2 to file a notice of intent to be a party within the time provided herein shall constitute a waiver of the right of the agency to participate as a party in the proceeding.

(d) Other parties may include any person, including those persons enumerated in paragraph (4)(b) who failed to timely file a notice of intent to be a party, whose substantial interests are affected and being determined by the proceeding and who timely file a motion to intervene pursuant to Chapter 120, F.S., and applicable rules. Intervention pursuant to this paragraph may be granted at the discretion of the designated hearing officer and upon such conditions as he may prescribe any time prior to 15 days before the commencement of the certification hearing.

6. When appropriate, any person may be given an opportunity to present oral or written communications to the designated hearing officer. If the designated hearing officer proposes to consider such communication, then all parties shall be given an opportunity to cross-examine or challenge or rebut such communications.

7. Notices or petitions made prior to the hearing should be made in writing to:

Ms. Diane D. Tremor  
Division of Administrative Hearings  
The Oakland Office Building  
2009 Apalachee Parkway  
Tallahassee, Florida 32399-1550

8. Those wishing to intervene in these proceedings must be represented by an attorney or other person who can be determined to be qualified to appear in administrative hearings pursuant to Chapter 120, F.S., or Chapter 17-1.21, FAC.

9. This Public notice is also provided in compliance with the federal Coastal Zone Management Act, as specified in 15 CFR Part 930, Subpart D. Public Comments on the applicant's federal consistency certification should be directed to the Federal Consistency Coordinator, Division of Environmental Permitting, Department of Environmental Regulation.

10. On November 16, 1987, Pasco County applied to the DER to construct the aforementioned resource recovery plant. The application is also subject to U.S. Environmental Protection Agency (EPA) regulations for Prevention of Significant Deterioration of air quality (PSD), codified at 40 CFR 52.21, and Florida Administrative Code Chapter 17-2.04. These regulations require that, before construction on a source of air pollution subject to PSD may begin, a permit must be obtained from DER. Such permit can only be issued if the new construction has been determined by DER to comply with the requirements of the PSD regulations, which are described in 40 CFR 52.21 and 17-2.04, F.A.C. These requirements include a restriction on incremental increases in air quality due to the new source and application of best available control technology (BACT).

The DER has been granted a delegation by EPA to carry out the PSD review of this source. Acting under that delegation, the DER has prepared a draft permit which is included in the DER's staff analysis report. The DER has made a preliminary determination that the proposed construction will comply with all applicable PSD regulations. The degree of Class II increment consumption that will result from the construction is:

<u>Pollutant</u>	<u>Annual Average</u>	<u>24-hr Average</u>	<u>3-hr Average</u>
Particulate	0.5%	1%	
Sulfur Dioxide	2%	3%	2%

The source is located approximately 27 kilometers from the nearest Class I area.

The degree of Class I increment consumption that will result from the construction and operation of the source is:

<u>Pollutant</u>	<u>Annual Average</u>	<u>24-hr Average</u>	<u>3-hr Average</u>
Particulate	1%	0.04%	
Sulfur Dioxide	1%	8%	8%

Construction and operation of the source will not cause a violation of any ambient air quality standard nor will it cause an exceedance of any PSD increment.