

BEFORE THE FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

DEPT OF ENVIRONMENTAL  
PROTECTION

DEC 04 2008

OFFICE OF  
GENERAL COUNSEL

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

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

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

AMENDED PETITION FOR ADMINISTRATIVE HEARING

Petitioner, Erwin Jackson, hereby files this amended petition, pursuant to sections 120.569, and 120.57, Florida Statutes, and Rule 28-106.201, Florida Administrative Code, and requests that the Florida Department of Environmental Protection ("FDEP") convene an administrative hearing in which he might challenge the FDEP's Notice of Intent to Issue a Draft Air Construction Permit in this proceeding, and state:

1. The name and address of the agency affected by this petition is  
  
Florida Department of Environmental Protection  
3900 Commonwealth Boulevard, MS 35  
Tallahassee, Florida 32399-3000
2. The agency's file number is 0730109-001-AC
3. The address of petitioner is 1341 Jackson Bluff Road, Tallahassee, Florida 32304.
4. Petitioner received notice of this agency action when FDEP issued a Notice of Intent to Issue An Air Construction Permit by publication in the local newspaper.
5. Petitioner objects to the determination by the agency that the applicant has provided reasonable assurance that this project will not adversely impact the community's air quality, and that the project will comply with applicable legal standards.
6. The facility is a Title V "Major Source" of air pollution, and the agency proposes to authorize operation of the first plant of this type to be established in this region of the country. The

plant will utilize an extensive biofuel delivery system to transport wood chips on-site. The applicant describes an elaborate process to remove dust particles and tars from the plant's air emissions, but fails to offer proven results of these emissions systems. With little actual operational experience for an operation such as this, the agency has unreasonably relied upon assertions by the applicant as to the operation of the proposed plant. Biomass plants can have important environmental impacts due to particulate emissions, which must be controlled with special devices. Many of the pollutants that may emerge from the Tallahassee BGE plant have been identified as having adverse effects on public health.

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

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

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

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

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

12. Petitioner asserts that the following rules and statutes should govern the agency's consideration of this application, and if applied, would be just cause to deny the application:

- (i) All applicable provisions of: Chapter 403, F.S.
- (ii) 40 CFR Part 60, New Source Performance Standards;
- (iii) Rule 62-296.401, F.A.C.
- (iv) Rule 62-204, F.A.C.
- (v) Rule 62-297, F.A.C.
- (vi) Rule 62-210, F.A.C.
- (vii) Clean Air Interstate Rule

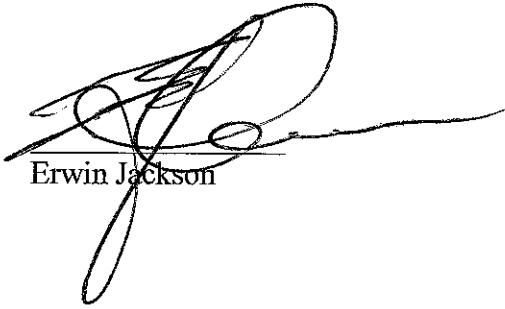
The application in this proceeding should be denied because it does not support a conclusion that the proposed plant will meet the substantial requirements of law applicable to it. A close application of the rules and statute cited herein, and other applicable law, would pose an insurmountable burden for the proposed plant. If placed in operation, with the exceptions a proposed, the plant will deposit emissions which are adverse to this community's air quality, as established in applicable law.

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

Dated this 4<sup>th</sup> day of December, 2008.

CERTIFICATE OF SERVICE

We do hereby certify that a copy of the foregoing was furnished to the following by U.S. mail on the 4<sup>th</sup> day of December, 2008, to Glenn Ferris, Biomass Gas and Electric, 3500 Parkway lane, Suite 440, Atlanta, Ga 30092.



Erwin Jackson