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May 13, 2011

Ms. Melissa Rossiter
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melissa.rossiter@go.doe.gov

RE: Door County Environmental Council comments on DOE Notice of Scoping -- Oneida Seven Generations Corporation (OSGC): Energy Recovery Project, Green Bay, Wisconsin (DOE/EA-1862)

Dear Ms. Rossiter,

Midwest Environmental Advocates (MEA) appreciates this opportunity to present comments on behalf of the Door County Environmental Council (DCEC) regarding the environmental assessment to be prepared by the Department of Energy (DOE) for the proposed Oneida Seven Generations Corporation (OSGC), "Energy Recovery Project" in Green Bay, Wisconsin.

Introduction

DCEC is a Wisconsin non-profit organization, incorporated in 1970, whose major objectives are protection of Door County's natural area through effective land use measures, including zoning, other regulations and private stewardship; and maintenance of the basic components of the environment in Door County: clean air, surface water quality, groundwater quality, soil integrity. DCEC has approximately 500 members, many of whom reside in or own property in Brown County, Door County, or Kewaunee County, Wisconsin. DCEC can be contacted at P.O. Box 114, Fish Creek, WI 54212, and more information regarding the organization is available at www.dcec-wi.org

MEA is a nonprofit environmental law center, founded in 1989, which provides legal and technical assistance to grassroots groups seeking to protect clean air, water and land and to obtain environmental justice. MEA has offices in Madison and Milwaukee, Wisconsin, and works in Wisconsin and

neighboring states. More information regarding MEA is available at www.midwestadvocates.org

MEA and numerous other organizations across Wisconsin opposed an amendment added to SB 273 at the end of the 2010 Wisconsin Legislative Session which added syngas facilities to those included as satisfying the state's renewable energy portfolio standards. A copy of the organizations' joint April 28, 2010 letter to then Governor Doyle outlines some of the concerns regarding syngas which the Environmental Assessment (EA) for the OSGC facility in Green Bay, Wisconsin needs to address. A copy of that letter is attached to these comments.

The DOE's Notice of Scoping regarding this Project accurately summarizes the nature of the EA required by the National Environmental Policy Act (NEPA), and the applicable implementing regulations referred to in the Notice. Similarly, the listing in the Notice of categories of impacts to be evaluated is appropriate. However, it is important to note that DOE has an obligation to prepare the EA for this proposed facility in an objective, fair, and even-handed manner, in accordance with the U.S. Supreme Court's numerous pronouncements that an agency take a "hard look" at the impacts of a proposed action in undertaking its environmental review.

We raise this point because of statements in the Notice that "[t]he project would be beneficial to the country's energy objectives by providing electricity from a renewable resource, and it would convert the solid waste into a stable, reduced volume material that could be disposed in a landfill or potentially used in concrete or road beds. The facility also would be available for other tribes and municipalities to learn about the process of converting waste into electricity." This is language that one might expect to find in a public relations piece prepared by the developer of a proposed project, rather than in an objective agency description of a project for which public comments are being sought. The suggestion in the Notice that the OSGC would provide an opportunity for others to learn about the process of converting waste into electricity sounds uncomfortably like a premature endorsement of a project for which the environmental review is only beginning.

The Need to Identify and Carefully Evaluate "Comparable" Facilities

While there are numerous waste to energy facilities in the United States, and others elsewhere in the world, experience with pyrolysis facilities (or gasification facilities fueled by municipal solid waste -- MSW) is far more limited. The EA needs to identify the existing pyrolysis/gasification facilities, if any, whose experience and performance it is relying on in assessing the potential impacts of the OSGC facility. In addition, it is necessary to describe the scale of those other facilities (in tons per day and MW generating capacity), the nature of their fuel, the monitoring of their air emissions (and the frequency of monitoring), their air emission performance, the monitoring of their resulting ash or other wastes (including monitoring results), the proportion of their ash or other wastes that are beneficially reused (including the nature of such reuse), the proportion of their ash or other wastes that are landfilled (and the type of landfills needed to be used). In addition, information regarding the nature and effectiveness of programs to remove recyclable materials (metals, paper, plastics, etc.) from the wastestream before it reaches the other facilities needs to be provided. Otherwise, there is no effective or meaningful way for the public, interested legislators, local decisionmakers, or agency decisionmakers to evaluate how

the impacts of the OSGC may resemble or may differ from the performance of the other facilities with which the OSGC is being compared.

Energy

The OSGC is described as being capable of generating up to 5 MW of energy. However, the pyrolysis processes by which the MSW fuel is gasified is energy-intensive, and air pollution control systems, wastewater treatment systems, and cooling systems can also consume significant electric power. Accordingly, the EA needs to analyze and describe how much of the electricity produced by the facility will be used by the facility itself, and what proportion, for what periods of time, will be transmitted to the utility grid. Similarly, are there periods, or stages, or situations under which the OSGC will be a net user, rather than a net producer, of power?

If the OSGC is to be viewed as a baseline power source, or as an intermittent power source, what backup energy sources are planned for in the event of operational problems or outages?

With respect to renewable energy credits, is it proposed that credits will be earned for all of the power produced, or only that which is sold to utilities?

Recycling

Project proponents have referred to the OSGC facility as a “recycling facility,” which is inconsistent with Wisconsin recycling laws and those of other states around the country. Listings of proposed fuel for the facility have included magazines, newspapers, paper products plastics and other recyclable materials. These materials are prohibited from disposal in landfills or incinerators in Wisconsin. Legal issues are among those which the EA/EIS process is required to address, and the question of the relation between the project’s proposed fuel sources and Wisconsin’s solid waste disposal and treatment laws and regulations needs to be addressed.

Fuel Sources/Feedstock

The range of fuel sources needs to be defined in the EA. Project proponents have described the fuel as “municipal solid waste that would otherwise be placed into a landfill”, and as “MSW”, or “typical household waste.” On the other hand, there have been indications that used tires may be an intended fuel source. However, neither recyclables, nor tires are allowed to be disposed of in landfills in Wisconsin. (While there are current budget proposals before the Wisconsin legislature to eliminate the requirement that municipalities conduct recyclable collection programs, the ban on landfill disposal of recyclables is proposed to remain in place). If the facility proposes to use recyclables or tires as fuel, the Wisconsin legal issues need to be addressed; as well as issues regarding storage space and procedures for tires. Moreover, the pyrolysis or combustion of materials which are banned from landfill disposal will not reduce consumption of landfill space, which has been presented as an advantage of a pyrolysis facility.

It is well-known that MSW contains a wide range of hazardous or toxic substances, ranging from numerous metals to a wide range of VOCs and organic compounds. Pyrolysis may break down the VOCs and some organic compounds into combustible syngas, but metals such as nickel, mercury, chromium, cadmium, lead, and arsenic are going to remain, either to be released in air emissions or water discharges or as contaminants in the ash or solid waste. The EA needs to take a hard look at the fate and transport of these substances.

Water Usage

The amount of water used by the OSGC facility needs to be determined, and the nature and strength of contaminants in its wastewater, along with any solid wastes resulting from its wastewater treatment system, needs to be determined. The EA will need to include information regarding the monitoring and testing of the facility's wastewater, as well as regarding its treatment.

Ash/Solid Waste Disposal or Use

As noted above, some percentage of the MSW entering the plant will consist of metals and other toxic or hazardous substances. Tires have their own list of toxic or hazardous components. Depending on the composition of the fuel and on the degree to which air or water pollution control systems prevent pollution of the air or water, the concentration of hazardous substances in the ash or solid waste from the OSGC facility will vary.

Ash from incinerating MSW or other mixed waste streams is often toxic, and needs to be disposed of in a Subtitle C, RCRA Hazardous Waste Landfill, none of which are located in Wisconsin. Such costs need to be factored into the economic analysis of the facility. The prospect of a hazardous waste ash byproduct also needs to be evaluated in determining the extent to which the facility's ash will be able to be beneficially reused in concrete, roadbeds, or the like. If these wastes do not require disposal in a Subtitle C hazardous waste landfill, but are not able to be reused, where will they be disposed of, and at what cost?

In this regard, the EA needs to include information regarding the testing and monitoring of contaminants in the ash/solid waste of the facility.

Air Emissions

The potential for hazardous air emissions are one of the areas of greatest concern. To what extent will air emissions of toxic metals be released from the facility, either from the pyrolytic process, from the combustion of syngas, or from fugitive emissions caused by other operations, including operation of the pollution control systems? What air pollutants will be monitored, with what frequency, and what air pollution controls and emissions limits can be anticipated? The EA needs to provide information regarding the requirements for, and performance experience of, comparable pyrolysis facilities. There are concerns that mercury, dioxins, furans, and similarly toxic materials will be produced or released from the high-temperature pyrolytic and combustion

processes of the OSGC facility. Air emissions of such highly toxic, persistent substances from this facility to be located near the Fox River and Lower Green Bay are of particular concern in view of the huge expenditures currently being made under the supervision of the United States EPA to remediate the extensive PCB contamination in those waterways and the sediments beneath them. Local fisheries are subject to fish consumption advisories resulting from PCBs and/or mercury, and it is important that additional toxic air pollutants not be introduced into the local atmosphere, only to be deposited directly or through stormwater runoff into the River and Bay, thereby delaying the recovery of the natural resource and the removal of the consumption restrictions.

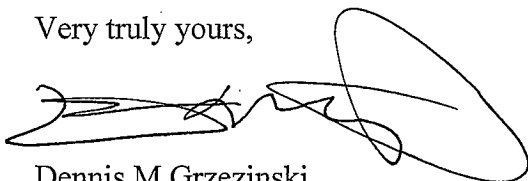
Additional Considerations and Recommendations

The comments above, as well as comments submitted by others, raise numerous questions which have not been answered by the information which has been made public by the project's proponents to date. The facility is inconsistently described as "cutting edge" on the one hand, and as comparable to scores of waste to energy facilities in the United States and hundreds more internationally, on the other hand. To the extent that the facility's proponents may be counting on DOE Section 1705 loans or funding, the DOE's announcement earlier this week that applications for such loans have been placed on hold may make some of these questions moot.

Nevertheless, we believe that a fair and objective environmental review process is likely to find that energy conservation and renewable energy projects utilizing wind and solar applications, combined with increased and improved recycling and reuse programs to reduce solid wastes, would provide greater environmental benefits, improved economic efficiency, and more employment opportunities than the proposed OSGC facility. The number and nature of the issues raised by this proposed facility also indicate that an Environmental Impact Statement (EIS), rather than an EA, is needed here.

Your consideration is appreciated.

Very truly yours,



Dennis M Grzezinski

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Sierra Club – John Muir Chapter * Waukesha Environmental Action League * Midwest Environmental Advocates
* Advocates for Renewable Energy * Wisconsin League of Conservation Voters * Clean Wisconsin * Wisconsin
Environment * Citizens Utility Board * RENEW WI * Physicians for Social Responsibility *
Wisconsin Network for Peace and Justice

Governor Jim Doyle
P.O. Box 7863
Madison, WI 53707

April 28, 2010

RE: Please Veto SB 273

Dear Governor Doyle,

We, the undersigned businesses and organizations, urge you to veto SB 273, which would undermine Wisconsin's current renewable energy standards under Act 141. Signing this bill will result in less renewable solar, wind and biomass energy for Wisconsin at a time when our economy and our environment desperately need more, not less, of these technologies to decrease our dependence on dirty fossil fuels.

New development companies across the country are attempting to define gasification facilities as "green" renewable energy. Yet this technology, a glorified form of incineration that is burdened with many of the same cost and environmental drawbacks, has never been successfully deployed anywhere in this country. Developers are seeking tax incentives, grants and renewable energy credits at the expense of recycling and true renewable energy programs.

Please end your tenure as Governor by vetoing the bill that will undermine Wisconsin's efforts to become a leader on genuine renewable energy. The benefits of doing so will be recognized for years to come.

We have further specific concerns about gasification-based waste-to-energy projects, which we have detailed below.

Financial Assistance & the Reality of Cost

Alliance Federated Energy has an offer to build a gasification plant at an unknown location, at an estimated cost of \$225 million dollars. That seems like a high price tag to create only 45-50 jobs.

Although the AFE proposal is for 1,200 tons per day (tpd) the best comparison the company can offer is Hitachi Metals, a 200 ton per day facility in Japan. When the City of Sacramento, CA was faced with a similar proposal they sent representatives to Japan and concluded by a unanimous vote NOT to accept gasification in Sacramento. (1)

Gasification and all forms of incineration compete with recycling for materials and financial incentives. Facilities that utilize combustion, no matter what they are called, destroy valuable resources and are not consistent with long-range sustainability.

Because these facilities are expensive and demand a steady stream of waste, they often put communities at risk. The City of Harrisburg, PA is looking at \$288 million dollars of incinerator debt and may have to file for bankruptcy. (2)

Air Quality Issues

Combustion of waste, or gas created from waste, generates pollution. During the burning of syngas, ultra fine particles containing volatile organic compounds, sulfur dioxide, heavy metals, mercury, and persistent organic pollutants such as dioxins and furans are released into the atmosphere. (3)

Zero Waste: A Goal to Aim For

Instead of looking at gasification, why not make a serious commitment to Zero Waste? Following a goal of zero waste maximizes recycling, creates jobs, and reduces pollution. This is the best option to improve our environment.

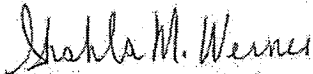
Unlike gasification, Zero Waste programs exist throughout the world and across the United States. These programs are flourishing and can provide excellent examples of achievable sustainability.

The City of San Francisco recovers 72% of the materials it discards. This is the direction Wisconsin should be moving towards. (4)

Please Veto SB 273

Again, we implore you to veto SB 273 because it is wrong for Wisconsin. This bill sets a very dangerous precedent of adding language at the very end of the legislative session to benefit companies that have no track record for the services they want to provide. There are hundreds of established clean energy companies in Wisconsin whose businesses will be severely jeopardized by diminished incentives that will result from this hasty, detrimental policy.

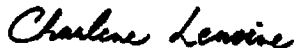
Sincerely,



Shahla M. Werner, PhD

Director


Sierra Club- John Muir Chapter



Charlene Lemoine

Waste Issues Representative

Waukesha County Environmental Action League



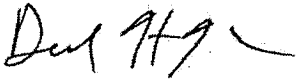
Kimberlee Wright
Executive Director
Midwest Environmental Advocates

s/ Shaina Kilcoyne

Shaina Kilcoyne
Coalition Coordinator

Advocates for Renewable Energy

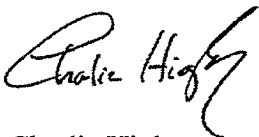
Advocates for Renewable Energy is a coalition of over 50 renewable energy businesses, labor groups, and environmental organizations advocating for passage of an Enhanced Renewable Portfolio Standard and Distributed Renewable Generation provisions.



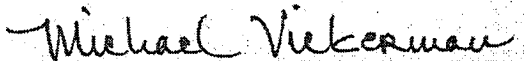
Dan Kohler
Director
Wisconsin Environment



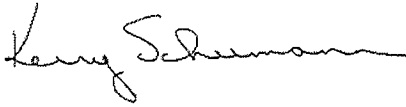
Keith Reopelle
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Michael Vickerman
Executive Director
RENEW Wisconsin



Kerry Schumann
Executive Director
Wisconsin League of Conservation Voters

s/ Pam Kleiss

Pam Kleiss
Executive Director
Physicians for Social Responsibility - Wisconsin Chapter

s/ Judy Miner

Judy Miner
Executive Director
Wisconsin Network for Peace & Justice

(1) "Plasma Gasification Plan Goes Up in Smoke for Sacramento." Calif. Government Technology *Jan 19, 2009*, By *Chad Vander Veen*, Associate Editor <http://www.govtech.com/gt/588496>

(2) "Harrisburg Faces Possible Bankruptcy, As Mayor Linda Thompson and Council Weight Their Options". by The Patriot News. February 14, 2010
http://www.pennlive.com/midstate/index.ssf/2010/02/harrisburg_faces_bankruptcy_in.html

(3) An Industry Blowing Smoke: 10 Reasons Why Gasification, Pyrolysis and Plasma Incineration are Not "Green Solutions" - Global Alliance for Incinerator Alternatives (GAIA) 6/09
http://nobiomassburning.org/docs/Industry_Blowing_Smoke.pdf

(4) San Francisco Zero Waste http://www.sfenvironment.org/our_programs/overview.html?ssi=3