

IN THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON D C

IN RE ENERGY ANSWERS LLC
(Arecibo Puerto Rico Renewable Energy Project)
Permittee

PSD APPEAL NO

U.S. Environmental Protection Agency Region 2
EPA Examiner

Leonardo Ramos-Hernandez,
Waldemar Flores-Flores

Petitioners

NOTICE OF APPEAL

TO THE HONORABLE BOARD MEMBERS:

COMES NOW Leonardo Ramos-Hernandez and Waldemar Flores-Flores, both filing pro se,
RESPECTFULLY ALLEGE, EXPOUND AND PRAY:

On April 10th 2014 The EPA Region 2 issued PSD permit to Energy Answers LLC for their Waste to Energy Project in Arecibo Puerto Rico (Arecibo Puerto Rico Renewable Energy Project).

Petitioners comply with participation in public comments as Waldemar Flores-Flores filed comments during the PSD process and the Coalition Against Incinerator made comments on behalf of Leonardo Ramos-Hernandez.

Alternatively, Leonardo Ramos-Hernandez is covered by exception whereas the Final Permit substantially differs from the draft permit as it includes a new cap just short of 1 MegaTon on biogenic CO2 emissions which was absent on the draft permit. Alternatively Leonardo Ramos-Hernandez is exempted from participation in public comment period for the Public Notices are deficient and failed to provide actual notice to all potentially interested parties.

PETITION

Petitioners hereby petition the Environmental Appeals Board for review of the aforesaid April 10th 2014 US EPA Region 2 Energy Answers, LLC PSD permit for the following issues:

The Public Notices failed to provide actual notice to persons impacted by the project. El Vocero is not, and was not at the time of publication of the Public Notices, a general circulation newspaper. El Vocero was, at the time, a limited distribution periodical. without fees and, during the time of publications, completely unavailable in Barranquitas and other municipalities, and totally unavailable past 7:30am in the municipalities where it was hand delivered. El Norte weekly periodical was not circulated in Barranquitas and is a limited circulation publication handed without a fee.

The EPA Examiner failed to publish all public comments in all the locations where the preconstruction documents were published. The EPA Examiner interrupted and cancelled one of the public hearing and displayed a security detail that intimidated potential commentors on subsequent hearing. Thus preventing, interfering and disrupting public discourse and participation of the issues made by the public.

The Public Notices failed to disclose the potential of impact on endangered species habitat or the legal requirement of the concurrence of Fish and Wildlife Service on the "no impact on habitat" assessment or that the project site is in the vicinity of a protected Natural Reserve and wetland, or that the project proposed to extract cooling waters from the protected Natural Reserve or wetland. Thus failing to give actual notice to all potentially interested parties.

The Cambalache wind data is flawed as the North Corridor, where now two thirds of the 3.8 million Puerto Rico population reside, and of which Arecibo is the geographical center, has experienced a massive ground cover replacement during the 20 years since the collection of the Cambalache data. The then agricultural usage ground cover was massively replaced with urban sprawl. Thus the convection forces wind current changes from the new urban ground cover invalidate the Cambalache data. The EPA Examiner either knew of this and corruptedly avoided using the NOAA Arecibo data or did not know but looked at the Arecibo data and corruptedly left it off the record because it invalidates Cambalache data, or acted with total incompetence and contrary to the regulation which states "in close proximity to the actual site of the source." 40 C.F.R. pt. 51 app. W § 8.3.3.1.a when it left NOAA Arecibo data off the record using San Juan, Aguadilla and US Virgin Islands NOAA data instead. This in violation of the fundamental right to a competent tribunal declared in the International Covenant of Civil and Political Rights a treaty ratified by Congress in 1993.

The Cambalache wind data is flawed because the Permittee did not have a Quality Assurance Program validating the data collected.

There is clearly no compliance with the Endangered Species Act requirement to assess all interdependent activities affect on endangered species habitat whereas the site of ash disposal is not certain and the cooling water intake volume and periodicity from wetland originated waters is undisclosed. There is no information to ascertain whether the flood control waters suffice the cooling tower demands, potentially resulting in draining of the wet land or forced production outages in order to protect the facility from overheating.

There is no disclosure of a rationale, much less a rationale sustained by evidence of the adequacy of permitting just short of a megaton of yearly CO2 emmissions with absolutely no emmissions prevention technology. There is no BACT analisis on the CO2 contaminant.

Further, there is not enough information to ascertain applicability and compliance with the Section 103 of the Marine Protection Research and Sanctuaries Act of 1972, Rivers and Harbors Act of 1899 - Sec.10, and Clean Water Act - Section 404, since the interdependent activities of cooling water intake, discharge and ash disposal are not described in the record.

Petitioners will file a brief in support of this Petition separate of this Petition and Notice of Appeal in due course.

WHEREFORE we respectfully request the remand to US EPA Region 2 of the aforesaid Energy Answers LLC Final PSD Permit for consideration of the aforesaid issues and new public comment period be established upon a new draft permit be issued correcting the issues and deficiencies hereby raised.

In Bayamon Puerto Rico this 24th of April 2014

/s/ Leonardo Ramos-Hernandez
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CERTIFICATE OF SERVICE

I CERTIFY that on this date I have notified this NOTICE OF APPEAL

Via email as follows:

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In Bayamon Puerto Rico this 12th of May 2014

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