

US EPA ARCHIVE DOCUMENT

BEFORE THE ADMINISTRATOR
U.S. ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.

In the Matter of:)
Ogden Environmental Services, Inc.)
Permit Applicant) RCRA Appeal No. 87-3
Permit No. CAD 981613789)

DENIAL OF PETITIONS FOR REVIEW

In petitions filed pursuant to 40 CFR §124.19 (1986), William and Pauline Nachbar, jointly, and E. Ivan White, Edward Gorham, Cedric Garland and the Environment Health Coalition, individually, requested review of a permit determination that will authorize Ogden Environmental Services, Inc. to construct a pilot-scale circulating bed combustor (CBC) in San Diego, California.

The permit determination was made by the U.S. Environmental Protection Agency, Region IX, San Francisco, California, under Section 3005(g) of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §6985, which authorizes EPA to issue research, development and demonstration (RD&D) permits to facilities that utilize innovative and experimental hazardous waste disposal technologies. EPA Region IX and Ogden expect this pilot-scale project to provide valuable information on incineration as an alternative to land disposal of hazardous wastes.

Petitions for review of RCRA permits are not granted unless the permit determination is clearly erroneous or involves an exercise of discretion or policy that is important and therefore

should be reviewed as a discretionary matter, 40 CFR §124.19(a)(1) and (2). The preamble to the regulations states that "this power of review should be only sparingly exercised [and] * * * most permit conditions should be finally determined at the Regional level * * *." 45 Fed. Reg. 33412 (May 19, 1980). The burden of demonstrating that the permit conditions should be reviewed is therefore on the persons petitioning for review. In this case, the petitioners have not convinced me that the Region's permit determination should be reviewed. Accordingly, the petitions for review are denied.

So Ordered.



Lee M. Thomas
Administrator

Dated:

July 24, 1987

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Denying Petitions for Review in the matter of Ogden Environmental Services, Inc., RCRA Appeal No. 87-3, were sent to the following in the manner indicated:

By 1st class mail,
postage prepaid:

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7/29/87
Date

Brenda H. Selden
Brenda H. Selden, Secretary
to the Chief Judicial Officer