COMM: NONE
FINAL: 6/20
5-1 (RF)

RESOLUTION 90-21

A RESOLUTION REQUESTING ASSISTANCE FROM THE GOVERNOR

WHEREAS, on March 22, 1985, the Common Council of the City of Bloomington approved a Consent Decree providing for the permanent disposal of PCB contaminated materials by incineration at six identified sites in Bloomington and Monroe County, Indiana; and

WHEREAS, the Consent Decree states that Westinghouse will build a rotary combustor incinerator, which must comply with all permitting requirements and emissions limitations under federal, state and local law; and

WHEREAS, Westinghouse has proposed that the O'Connor Combustor incinerator be used for incineration of the PCB contaminated materials in the Monroe County area; and

WHEREAS, since approval of the PCB Consent Decree, significant delays have been experienced in implementing the actual clean up, a substantial portion of which are attributable to Westinghouse's insistence on using the O'Connor Combustor; and

WHEREAS, since approval of the Consent Decree there has been increasing public awareness and discussion of the environmental dangers of PCB pollution and of various methods of eliminating that danger, including incineration; and

WHEREAS, since approval of the Consent Decree there has been an increase in the amount of often conflicting information and opinions presented to the public on these subjects; and

WHEREAS, concerned citizens and local elected officials have raised numerous questions and concerns about the suitability of the O'Connor Combustor for hazardous waste incineration, many of which have never been adequately addressed; and

WHEREAS, the permitting process has been further delayed as a result of Westinghouse repeatedly proposing modifications of the design of the incinerator to address operational difficulties experienced with existing O'Connor msw incinerators; and

WHEREAS, the U.S. Environmental Protection Agency has recently proposed more restrictive emissions limitations contained in the New Source Performance Standards (NSPS) for municipal solid waste incinerators; and

WHEREAS, the Indiana Attorney General has determined that Indiana law requires that Westinghouse obtain a Certificate of Environmental Compatibility from the Indiana Hazardous Waste Facility Site Approval Authority ("IHWFSAA") prior to commencing construction of the proposed incinerator; and

WHEREAS, in order to obtain a Certificate of Environmental Compatibility, Westinghouse must prepare and submit to the Indiana Hazardous Waste Facility Site Approval Authority information and reports similar to an environmental impact statement; and

WHEREAS, requiring Westinghouse to apply for and obtain a Certificate of Environmental Compatibility for the incinerator and hazardous waste landfill prior to the issuance by the Indiana Department of Environmental Management ("IDEM") of construction permits for a municipal solid waste incinerator or hazardous waste landfill will provide a formal process to address continuing concerns over the proposed locations of the incinerator and the landfill; and

WHEREAS, the cleanup process needs to move forward, with consideration of the public health being paramount;

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

1. The USEPA and IDEM should force Westinghouse to provide the best available technology. The EPA and IDEM should not permit Westinghouse to proceed with an O'Connor Combustor incinerator unless and until Westinghouse can conclusively demonstrate that such an incinerator is equal to the best technology available today and can safely treat the PCB contaminated materials.

2. The USEPA and IDEM should continue to explore alternative technologies. While Westinghouse has the right to propose alternative technologies, the EPA and IDEM must be fully aware of the available alternative technologies, and prepared to advocate a change to an alternative technology if it offers a quicker and safer cleanup than the currently proposed O'Connor Combustor.

3. The Governor of the State of Indiana should direct the Commissioner of the IDEM to withhold issuance to Westinghouse of construction permits for a municipal solid waste incinerator or hazardous waste landfill until Westinghouse applies for and obtains the legally required Certificates of Environmental Compatibility from the Indiana Hazardous Waste Facility Site Approval Authority.

4. The permitting process should be consolidated so that the questions and concerns over use of the O'Connor Combustor for incineration of PCB contaminated materials will be addressed before permits are issued authorizing the construction of an incinerator.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this 20th day of JUNE, 1990.

Iris Kiesling

IRIS KIESLING, President
Bloomington Common Council

SIGNED and APPROVED by me upon this 22 day of June, 1990.

Tomilea Allison

TOMILEA ALLISON, Mayor
City of Bloomington

ATTEST:

Patricia Williams

PATRICIA WILLIAMS, Clerk
City of Bloomington

SYNOPSIS

This Resolution, sponsored by Councilmembers Fernandez, Hitchcox, Kiesling, Regester and Service, asks the Governor to direct the Commissioner of the IDEM to withhold issuance of an msw incinerator permit to Westinghouse until Westinghouse obtains the legally required Certificate of Environmental Compatibility. In addition, the Resolution requests that the USEPA and IDEM require Westinghouse to provide the best available technology, and that the USEPA and IDEM continue to explore alternative technologies. Finally, the Resolution supports consolidation of the permitting process.

The resolution received a roll call vote of Ayes:5, Nays:1(Ron Foley)

Signed copies to
Governor Bayh
EPA
IDEM
Westinghouse
John Langley
File

Mark Krueger
Congressman McCloskey
Lee Hamilton

City of
Bloomington
Indiana

Office of the
Clerk

Post Office Box 100
Municipal Building
Bloomington, Indiana 47402

Telephone 812 331 6408

June 25, 1990

Evan Bayh
Governor of Indiana
Indiana State House
Indianapolis, Indiana
46204

Dear Governor Bayh:

Enclosed is a copy of Resolution 90-21 passed by the Bloomington Common Council and approved by the Mayor.

The synopsis very carefully details the purpose of the resolution.

I have also forwarded copies of this resolution to Westinghouse, the USEPA and IDEM.

We appreciate your support regarding this very long and difficult process that our community has suffered.

Sincerely,

Patricia Williams

Patricia Williams, CLERK
City of Bloomington

cc; EPA
IDEM
Westinghouse

INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

105 South Meridian Street
P.O. Box 6015
Indianapolis 46206-6015
Telephone 317/232-8603

January 18, 1991

received 1-22-90

Ms. Patricia Williams, Clerk
City of Bloomington
Post Office Box 100
Municipal Building
Bloomington, Indiana 47402

Dear Patricia:

Thank you for forwarding to the Governor a copy of the Bloomington Common Council Resolution. The Governor and I certainly share your concerns for the best environmentally sound resolution to this complicated problem. I would like to take this opportunity to update you on Westinghouse Consent Decree activities and issues.

The first issue is the need to ensure that the best available technology is used to safely destroy the PCB materials. I can assure you that IDEM and the U.S. EPA continue to explore alternative technologies for the cleanup of PCB contaminated soils and should a field tested and documented superior alternative to incineration be found, this technology would be given serious consideration. Until such an alternative technology is available, however, IDEM will require that the proposed O'Connor Combustor incinerator meet the most stringent control requirements currently known, not only for the destruction of PCBs, but also for the combustion of municipal solid waste. Incineration is a proven technology for the combustion of solid waste and for the destruction of PCBs.

Another issue of concern is that the ash from the incinerator will still be "hazardous" and requires disposal in a permitted hazardous waste landfill. It is true that the ash from the incinerator will be disposed of in a secure hazardous waste landfill mainly because of the strict requirements that define a hazardous waste. The actual "toxicity" of the ash will be many orders of magnitude lower than the material that is presently being contained at their original disposal sites. The interim measures already taken to secure these contaminated sites are only considered to be temporary until the incinerator is operational and a complete cleanup is accomplished.

On December 6, 1990, Westinghouse officials announced the location and plans for an ash landfill in Washington Township. IDEM will be reviewing early geologic and hydrogeologic data for this site prior to Westinghouse's anticipated landfill application submission in July 1991.

No hazardous waste landfill can be constructed without a "Certificate of Environmental Compatibility" from the Indiana Hazardous Waste Facility Site Approval Authority and a permit from IDEM. Both the certificate and the IDEM permit involve extensive local public participation.

The final issue I would like to address is the timing of issuance of the various permits and approvals needed before Westinghouse can begin construction of the incinerator. On June 19, 1990, the Attorney General issued an Advisory Opinion to the Interim Director of the Hazardous Waste Facility Site Approval Authority regarding the need to obtain a "Certificate of Environmental Compatibility" before constructing the incinerator, even if it would only be used for solid waste initially. The opinion, with which I agree, is that the Certificate would be required prior to construction of the incinerator. IDEM is presently meeting with Consent Decree representatives to evaluate the integration of the permitting process for the incinerator and to determine the activities necessary for an expeditious implementation of the cleanup remedy.

I am committed to making Indiana a cleaner and healthier place to live, and addressing the PCB contamination in Bloomington is certainly a high priority in that commitment. I am also firmly committed to the State and local government partnership needed to address these critical environmental issues. If you have further concerns, please do not hesitate to write to me.

Sincerely,

Kathy Prosser

Kathy Prosser
Commissioner