

IN THE MATTER OF	*	BEFORE THE MARYLAND
NORTHEAST MARYLAND WASTE	*	STATE DEPARTMENT OF
DISPOSAL AUTHORITY	*	HEALTH AND MENTAL
AND	*	HYGIENE
WHEELABRATOR-FRYE INC.	*	
AND	*	
MAYOR AND CITY COUNCIL OF	*	
BALTIMORE	*	
AND	*	
BEDCO DEVELOPMENT CORP.	*	
* * *	* * *	* * *

SECRETARIAL ORDER

(By Consent)

The Northeast Maryland Waste Disposal Authority (the "Authority") proposes that a resource recovery facility (the "Facility") be constructed at the site of the Baltimore City Pyrolysis Plant, 1801 Annapolis Road, in Baltimore City and has selected Wheelabrator-Frye Inc. (the "Company") to construct, own and operate the Facility, pursuant to Resolution No. 10, adopted by the Authority on May 10, 1982.

On November 20, 1981 the State of Maryland Department of Health and Mental Hygiene (the "Department"), the Authority and the Company agreed to certain Stipulations and Order (collectively, the "Order") setting forth the terms and conditions under which the Department will issue the necessary approval and permits to the Authority and the Company (and/or an affiliate of the Company) to authorize the construction and operation of the Facility (referred to in the Order as the "Incinerator").

Among the terms and conditions of the Order was a provision that an emission offset would be acquired and maintained

which would be equal to at least 110 percent of the emissions from the Facility. The Department has determined that an emission offset is required by COMAR 10.18.06.11 because the Facility is to be located within an area designated as non-attainment for particulate matter. The Authority has negotiated with the Mayor and City Council of Baltimore (the "City") for an emission offset to be obtained from the closing of the Baltimore City Pyrolysis Plant and the Pennington Avenue Landfill (the "Landfill"), and the Department has determined that this represents a sufficient reduction of emissions for purposes of COMAR 10.18.06.11.

The City owns a portion of the land on which the Landfill is located. BEDCO Development Corp. ("BDC") owns the remaining portion of the land on which the Landfill is located and leases that portion to the City.

The City wishes to give the Department legally binding assurances that the Landfill will be permanently closed and the Department has agreed, on the basis of these legally binding assurances, to modify the Order to provide that no action of any sort will be taken by the Department to curtail or to terminate operations at the Facility should the Landfill be re-opened as a landfill or otherwise operated as a source of particulate emissions. To this end, the Department and the City agree to the following Stipulations and Order (as to which BDC also joins to the extent that its agreement is necessary to ensure that the Landfill will be permanently closed):

STIPULATIONS

1. Understanding and acknowledging that air quality permits for the construction and operation of the Facility will be issued on the basis of the allocation of particulate emission offsets available upon the closing of the Landfill, the location of which is shown as Parcel No. 1 and Parcel No. 2 on the plat

attached hereto as Exhibit A, the City unconditionally agrees that (i) the Landfill will close on or before September 1, 1983, (ii) the Landfill thereafter will not be re-opened as a landfill or otherwise operated as a source of particulate emissions unless the Department, the Authority and the Company agree that a reduction in emissions from the Landfill is no longer required to offset emissions from the Facility, and (iii) the portion of the land on which the Landfill is located that the City owns (as identified on Exhibit A) will not be sold, leased or otherwise transferred without the written agreement of the purchaser, lessee or transferee to be legally bound by the provisions of this Secretarial Order (including the Stipulations thereto).

2. On or before September 1, 1983, the City will relinquish all permits relating to the operation of the Landfill as a landfill or as a source of particulate emissions and hereby agree not to undertake any efforts to obtain any new or additional permits relating to the operation of the Landfill as a landfill or as a source of particulate emissions unless the Department, the Authority and the Company agree that a reduction in emissions from the Landfill is no longer required to offset emissions from the Facility.

3. The City hereby acknowledges that it intends to be legally bound by the agreements contained herein, which agreements have been expressly authorized and approved by the City's Board of Estimates at a meeting duly called and held on November 3, 1982, a quorum being present throughout, and further consents to the Department's taking any and all legal action necessary (including, without limitation, obtaining from a court of competent jurisdiction a writ of mandamus or a mandatory injunction) to enforce the agreements contained herein.

4. BDC unconditionally agrees that the portion of land on which the Landfill is located that BDC owns (as identified on Exhibit A) (i) will not be used or operated in a manner inconsistent with or in violation of the terms and conditions of this Secretarial Order (including the Stipulations thereto) and (ii) will not be sold, leased or otherwise transferred without the written agreement of the purchaser, lessee or transferee to be legally bound by the provisions of this Secretarial Order (including the Stipulations thereto). BDC acknowledges that it intends to be legally bound by the agreement contained herein and consents to the Department's taking any and all legal action necessary (including, without limitation, obtaining from a court of competent jurisdiction a writ of mandamus or mandatory injunction) to enforce the agreement contained herein.

ORDER

Based on the foregoing Stipulations, it is hereby ordered this 25th day of Feb., 1983, that:

1. The City shall permanently close its Pennington Avenue Landfill in accordance with the foregoing Stipulations.

2. The Pennington Avenue Landfill shall not be re-opened as a landfill or otherwise operated as a source of particulate emissions without the prior written acknowledgment of the Department that all conditions contained in the foregoing Stipulations have been satisfied.

3. The Secretarial Order (By Consent) dated November 20, 1981 relating to the Department's approval of the construction and operation of the Facility is hereby amended by restating paragraph 5 of the Order as follows:

5. In the event that the Pennington Avenue Landfill is not permanently closed, is re-opened as a landfill or is otherwise operated as a source of emissions, with the result that offsets provided by the

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Per L. Bass
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closing of the Pennington Avenue Landfill are no longer available or sufficient to offset emissions from the Incinerator as set forth in Paragraph 2 of the Stipulations between the Department and the Authority, operations at the Incinerator shall not cease, be curtailed or otherwise be affected; and the Department shall not issue any order or take any other action to require the cessation or curtailment of operations at the Incinerator because of the unavailability or insufficiency of such emission offsets.

Except as herein amended, the provisions, terms and conditions of the Secretarial Order (By Consent) dated November 20, 1981 are hereby reaffirmed and remain in full force and effect.

Feb. 25, 1983
DATE

William M. Eichbaum
WILLIAM M EICHBAUM
Assistant Secretary for
Environmental Programs

The foregoing Order is agreed to and the within conditions con-
ceded to.

MAYOR AND CITY COUNCIL OF
BALTIMORE

November 4, 1982
DATE

William Donald Schaefer
WILLIAM DONALD SCHAEFER
Mayor

BEDCO DEVELOPMENT CORP.

November 22, 1982
DATE

Bernard L. Berkowitz
BERNARD L. BERKOWITZ
President

Approved as to form and
legal sufficiency this
3rd day of November, 1982

Approved by the Board of
Estimates this 22nd day
of November, 1982.

Benjamin L. Brown
BENJAMIN L. BROWN,
City Solicitor

Richard A. Lidinsky
RICHARD LIDINSKY, Clerk
to the Board of Estimates and
Deputy Comptroller

ATTEST:

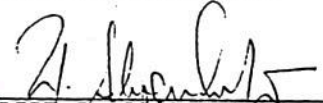
Martin P. Welch
MARTIN P. WELCH,
Assistant City Solicitor

John M. Welch
(Alternate) Custodian of the City Seal

SEAL

The foregoing Order is acknowledged and the within conditions consented to.

NORTHEAST MARYLAND WASTE
DISPOSAL AUTHORITY



ROBERT F. SCHOENHOFER
Executive Director

WHEELABRATOR-FRYE INC.



MARC I. STERN
Senior Vice President

DATE Oct. 13, 1982

DATE Nov 1, 1982