

Osborne Jersey Farm



"Gem State Pride"

February 1, 2012

Idaho Public Utilities Commissioners
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83702

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IDAHO PUBLIC
UTILITIES COMMISSION

Via Hand Delivery

Re: *Case No. IPC-E-11-25*

*IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY
FOR A DETERMINATION REGARDING THE FIRM ENERGY SALES
AGREEMENT FOR THE SALE AND PURCHASE OF ELECTRIC ENERGY
BETWEEN IDAHO POWER COMPANY AND DYNAMIS ENERGY, LLC*

Dear Commissioners:

I have instructed my attorney, Mr. Steele, to submit the attached objections and comments to this application. As a lifelong Idaho resident, experienced business man, and retired dairy farmer, it is my obligation to contest this proposed energy purchase.

Idaho's business climate is one of the most favorable in the nation. But the Dynamis business model, if approved, will negatively impact our local governments and the ultimate "cost" will eventually be paid by ratepayers.

I favor cost effective renewable energy for Idaho. As we are blessed with some of the greatest natural resources in the world, we pay the lowest electric rates in the United States. The Dynamis application completely fails any reasonable economic analysis. I urge you to study the financial foundation of this application. It cannot withstand close scrutiny.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Hubert L. Osborne".

Hubert Osborne

Hubert & Charlene Osborne
4199 E. Switzer Way
Nampa, Idaho 83686
Phone (208) 467-4928



RUNFT & STEELE
LAW OFFICES, PLLC

John L. Runft | Jon M. Steele

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BETWEEN IDAHO POWER COMPANY AND DYNAMIS ENERGY, LLC

Dear Commissioners:

On behalf of Mr. Hubert Osborne, an Idaho Power customer, I submit the following objections and comments concerning Case No. IPC-E-11-25:

1. There has been no waste-to-energy plants built in the United States for the last 15 years. *See p. 83 attached.*
2. Idaho has no renewable energy standards and no energy plan. *See pp. 85-89 attached.*
3. In this vacuum of leadership Idaho's cities, counties, and urban renewal districts have rushed to fill that void. *See pp. 3-79 attached.*
4. Our local governments have spent millions of dollars researching the feasibility of technology that Dynamis Energy LLC labels "experimental." *See pp. 17, 59, 63, 65, 68-69, and 70 attached.*

r u n f t s t e e l e . c o m

Phone: (208) 333-8506 | Fax: (208) 343-3246 | Boise, Idaho 83702

In the Alaska Center | 1020 W. Main Street, Suite 400 | Fourth Floor

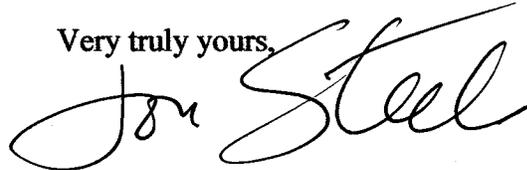
5. In June of 2010 Ada County agreed to pay Dynamis almost two million dollars for the design of a trash-to-energy Project labeled as “experimental.” *See* pp. 17 and 23; *see also*, p. 42 (referring to Ada County’s purchase of the design and the sale of the design back to Dynamis.)
6. The Eastern Idaho Regional Solid Waste District, which includes Clark, Bonneville, Madison and Fremont counties, retained Precision Systems Engineering to analyze the Dynamis Energy 3.0 thermal oxidation system technology. This report concluded “[t]here are many factors in the operation of a plant this complex that cannot be foreseen. For this reason, PSE believes the EIRSWD will be exposed to some risk.” In summary the report concluded that: “Subject to these areas of uncertainty and further subject to the detail of the information provided to PSE by Dynamis, PSE believes that the Dynamis technology is feasible and has a reasonable likelihood of being operable. *See*, EIRSWD Waste to Energy Project, meeting of March 3, 2011, PSE Independent Analysis Findings (available online).
7. On October 17, 2011, Nampa City and the Nampa Development Corporation, after commissioning a \$250,000 study (*see* pp. 61-70) were advised by McKinstry that the Dynamis proposal was not cost-effective under the recently revised PURPA power purchasing rates as set by the Idaho PUC. *See* p. 70 attached.
8. FERC’s implementing regulations allow this Commission, in setting rates for purchases, to differentiate among various technologies on the basis of the supply characteristics of such technologies (18 C.F.R. § 292.304(c)(3)(ii)) and to consider “[t]he expected or demonstrated reliability of the qualifying facility.” (18 C.F.R. § 292-304(e)(2)(ii))
9. It is virtually impossible for this Commission to determine the reliability of the Dynamis technology, the economic viability or the feasibility of this application based upon the record before the Commission.
10. According to Dynamis the technology for this project is a patented process and a trade secret. *See*, pp. 22 and 58.
11. The application contains only a general description of the Dynamis technology and Idaho Power specifically disclaims responsibility for the Dynamis technology.
12. The application commits Dynamis to deliver up to 20MW of non-intermittent energy during heavy load hours. Yet, the Dynamis contract with Ada County addresses interruptions or shortfalls of waste delivery. *See* pp. 44-46.

13. In determining the avoided cost of this application, the Commission must also consider the falling prices of natural gas. *See pp. 80-81 attached.*
14. The Commission must also consider the cumulative renewable power generation previously approved. Idaho Power could have 1,100 MW of wind-powered generation on its system in the near term that would exceed the minimum loads experienced on Idaho Power's system this year. "Cumulatively, this amount of generation would exceed any other single source of generation – hydro, coal, natural gas, or renewables – that exists on Idaho Power's system. *See p. 2 attached.*
15. A waste-to-energy facility has three potential sources of revenue.
 - a. Energy sales
 - b. Credit and renewable energy credits *See pp. 31, 39 and 50.*
 - c. Tipping fees *See p. 90.*
16. Ada County will not charge Dynamis a tipping fee. *See pp. 44 and 46.* But Dynamis may charge a tipping fee to third parties (p. 46) and may request fees after the initial term of the Ada County contract. *See p. 48.*
17. The Commission will soon be entertaining additional Dynamis applications. Now is the time for the Commission to scrutinize the technology and the real avoided cost of this application.
18. As a negotiated price, and not a posted rate, the rate to be paid Dynamis is subject to objection that it is too high.
19. The Dynamis avoided cost of \$92.36 per MWH far exceeds other renewable energy rates. *See p. 91*
20. The Dynamis application will saddle Idaho Power customers with additional costs and higher power rates.
21. The Commission has the responsibility to set cost rates that are just and reasonable to Idaho Power ratepayers, not Dynamis.
22. This application presents the Commission with policy and feasibility questions that require a technical hearing.
23. The modified procedure requested by Idaho Power does not serve the public interest.

Idaho energy policies should be addressed by our state legislators, our IPUC Commissioners, and technical and financial experts. This application is driven by locally elected officials with little or no knowledge in this specialized area who can be easily influenced and who are forcing Idaho energy policy into a black hole.

Mr. Osborne, on behalf of himself and other Idaho Power ratepayers, pray that the Commission schedule a technical hearing so that the Commission can take testimony and evidence concerning this application.

Very truly yours,

A handwritten signature in black ink that reads "Jon Steele". The signature is written in a cursive, flowing style.

Jon M. Steele
Runft & Steele Law Offices, PLLC

JMS:kra
Enclosures

Sources

1. Attorney Steele letter to Idaho Public Utilities Commission dated December 15, 2011 pp. 1-2
2. Attorney Steele Press Release: *Backdoor Politics: The Ada County Commissioners and Dynamis Energy, LLC* pp. 3-5
3. Attorney Steele Press Release: *Backdoor Politics: The Ada County Commissioners and Dynamis Energy, LLC, Chapter 2* pp. 6-7
4. Contract for Professional Consulting Services Between Ada County and Dynamis Energy, LLC Where the Fee is Actual Cost with A Guaranteed Maximum Price pp. 8-34
5. Franchise Agreement Between Ada County and Dynamis Energy, LLC pp. 35-57
6. Dynamis Energy 3.0 State of the Art Technology copyright 2010 Dynamis Energy, LLC p. 58
7. Cynthia Sewell, *Two plants in Idaho could turn 250 tons of trash a day into power for 10,000 homes*, Idaho Statesman, February 15, 2011 p. 59
8. Cynthia Sewell, *Eagle company to build waste-to-energy plant in Italy*, Idaho Statesman, June 9, 2011 p. 60
9. Minutes from Special Meeting of the Nampa Development Corporation, Wednesday April 13, 2011 p. 61
10. Minutes from Special Council meeting, May 10, 2011 pp. 62-64
11. Minutes from the Meeting of the Nampa Development Corporation, Wednesday, October 12, 2011 pp. 65-67
12. *Nampa wise to look into waste power plant idea (take poll at right)*, Idaho Press Tribune, May 12, 2011, [http://www.idahopress.com/opinion/editorial/nampa wise to look...](http://www.idahopress.com/opinion/editorial/nampa_wise_to_look...) pp. 68-69

13. Letter from McKinstry to Nampa City Mayor, Tom Dale, dated October 17, 2011 p. 70
14. Jeremy Fugleberg, *Companies plan garbage-fueled power plants in Wyoming*, Star Tribune, May 18, 2011. pp. 71-73
15. *Dynamis Energy and Planova Sign Agreement to Construct Waste-to-Energy Plants in Brazil*, Brazil Business Today, October 11, 2011, [http://brazilbusiness.com/pr_news/61266432/dynamis energy and planova...](http://brazilbusiness.com/pr_news/61266432/dynamis_energy_and_planova...) pp. 74-75
16. Jeremy Fugleberg, *Wyoming garbage-fueled power plants move forward*, Star-Tribune, November 27, 2011 pp. 76-77
17. Sven Berg, *Projects Spark Discussion on Waste-To Energy Technology*, Idaho Falls Post Register, January 15, 2012 pp. 78-79
18. Julie Johnsson and Mark Chediak, *Electricity Declines 50% as Shale Spurs Natural Gas Glut: Energy*, Businessweek, January 19, 2012, [http://www.businessweek.com/new/2012-01-19/electricity-declines-50-as](http://www.businessweek.com/new/2012-01-19/electricity-declines-50-as.....) pp. 80-81
19. Spokane Waste to Energy Facility, <http://spokane.wastetoenergy.com/WastetoEnergy.htm> pp. 82-84
20. Comments of Idaho Power Company to the Interim Committee on Energy, Environment and Technology on the Draft 2012 Idaho Energy Plan pp. 85-89
21. Tipping fee chart p. 90
22. Comparison of Renewable Energy Rates p. 91



RUNFT & STEELE
LAW OFFICES, PLLC

John L. Runft | Jon M. Steele

December 15, 2011

Mr. Gene Fadness
Executive Assistant
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83702

Mr. Rick Sterling
Staff Engineer
Idaho Public Utilities Commission
472 W. Washington
Boise, ID 83702

VIA HAND DELIVERY

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BETWEEN IDAHO POWER COMPANY AND DYNAMIS ENERGY, LLC***

Dear Mr. Fadness and Mr. Sterling:

I represent Mr. Hubert Osborne, an Idaho Power customer and resident of Canyon County. Mr. Osborne and a number of other Idaho Power customers have concerns about the above-referenced application.

Although PURPA was intended to encourage the development of renewable energy technologies as alternatives to the use of fossil fuels, this application is premised upon unproven technology, government payments, and tax credits. The unique characteristics of this application differentiate it from PURPA qualifying facilities.

The modified procedure requested by Idaho Power does not serve the public interest. Not only is the proposed technology unproven but the framework of the entire business model is premised upon contracts with other public entities which do not have the ability to question the representations of Dynamis Energy, LLC.

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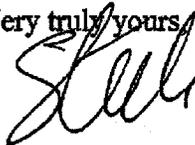
The application states the contract price will be a negotiated price between the utility and developer. Without knowing the rate the Commission has no basis for determining it to be reasonable. Additionally, this application is intended to formulate a model to be repeated in other Idaho counties.

The public deserves to be heard on the energy policy issues presented by this application as the issues involved in this application will affect the future of alternative energy resources in our state. The Commission should require complete transparency and disclosure of all conflicts of interest.

Please place the following individuals on the Interested Parties list:

1. Jon M. Steele jsteele@runftsteele.com
2. Hubert Osborne hlclosborne@aol.com

Idaho Power's request that this application be handled by modified procedure must be denied and a hearing date scheduled.

Very truly yours,


Jon M. Steele
Runft & Steele Law Offices, PLLC

JMS:kra

Cc: Hubert Osborne

PRESS RELEASE

Backdoor Politics: The Ada County Commissioners and Dynamis Energy, LLC

Why would Idaho Power agree to pay Dynamis Energy far more than any other alternative energy provider?

The Idaho Public Utilities Commission has been asked to approve a "deal" between Dynamis Energy, LLC and Idaho Power Company that will require Idaho Power to pay Dynamis more than twice the going rate for electricity. The Dynamis electricity is planned to be generated at a proposed trash-to-energy Project located at the Ada County landfill.

While the public spotlight is now focused upon Idaho Power and the Idaho Public Utilities Commissioners, this boondoggle originated with the Ada County Commissioners.

Although Idaho Power has made the application to the Idaho Public Utilities Commission for approval of the Dynamis "deal," a close reading of the Idaho Power papers discloses a less than enthusiastic endorsement. The garbage to energy concept sounds green and clean and may even be technically feasible, but it will be expensive for Idahoans, who have enjoyed the cheapest electric rates in the United States.

In June of 2010 the Ada County Commissioners agreed to pay Dynamis almost 2 million dollars for the design of a trash-to-energy Project to be built at the Ada County landfill. The primary benefit to Ada County is the possibility of extending the useful life of the landfill because the Project will incinerate garbage rather than bury it.

However, unlike many communities, Ada County has a landfill that will provide solid waste disposal for roughly 70 to 100 years – the Hidden Hollow Landfill off of Hill Road. In 2007 Ada County opened a new landfill section, the North Ravine Cell, located on 2700 acres of County-owned property. The North Ravine Cell is the replacement landfill for the nearly full Hidden Hollow Landfill.

In 2005, Ada County contracted with Fortistar Energy to burn the natural byproduct at the Hidden Hollow Landfill - gas - which is used as fuel to generate electricity. Fortistar can generate roughly 3.2 mega-watts of electricity – enough to power about 2,400 homes. In 2010 Fortistar paid Ada County \$260,786 for gas produced by rotting garbage which was converted to electricity and sold to Idaho Power. Yet, the rate paid to Fortistar by Idaho Power is substantially lower than the rate to be paid Dynamis.

Dynamis, according to its website, is composed of "...a group of highly committed professionals that are dedicated to clean renewable energy through waste recovery systems." If their website is to be believed, Dynamis is "...your best source for value-driven, environmentally sound, global turnkey waste to energy services." Dynamis owns "...state-of-the-art proprietary waste-to-energy technology." Their "...patented process reduces reliance on fossil fuels,

decreases harmful emissions and provides numerous immeasurable long-term benefits, clearing a new path toward a sustainable and cleaner world.” Who can argue with that?

In June of 2010 Ada County Commissioners Fred Tillman, Sharon M. Ullman, and Rick Yzaguirre took it upon themselves to sign a contract with Dynamis which says that Dynamis will design “... a 250 ton per day waste to energy facility...” referred to as the Project. The Dynamis website states that ... “[o]ne of our 250 ton per day plants produces on average 15 megawatts, which means **in theory** we can provide power for 14,000 homes.” [emphasis added].

Between July 15 and December 17, 2011, Ada County paid Dynamis almost 2 million dollars. These payments were for the design of the Project. None of these payments purchased any material or labor or permits that will be required to build the Project.

The Dynamis contract does not guarantee that the waste to energy Project will work or even that the waste to energy Project will *probably* work. Rather, the contract states that the almost 2 million dollar Project design is based upon “experimental technologies” and that after review of the Project design Ada County “...may not want to proceed.”

On November 1, 2011 the Ada County Commissioners entered into a second agreement with Dynamis. This time, however, Commissioner Vern Bisterfeldt refused to go along, but majority ruled. This agreement allows Dynamis to finance the Project, build it, own it, and operate a 54,400 square foot plant costing \$60,000,000 on County land for \$1 a year. The County will deliver 408 tons of waste daily to Dynamis at no charge. Dynamis will convert the trash to electricity which it plans to sell to Idaho Power, which brings us back to the Idaho Power application before the Idaho Public Utilities Commission.

Energy law requires Idaho Power to contract with Dynamis, but not at an inflated price which will ultimately be paid by Idaho Power customers. This “deal” favors Dynamis over Idaho Power customers. While science and technology make the Dynamis project *possible*, science and technology have not made the Dynamis project *economically feasible*.

The Ada County Commissioners’ rush to contract with Dynamis left little time for any analysis. The driving forces behind the rush to contract were government payments, tax incentives about to expire, and cash.

Approval of this “deal” will open the flood gates. The Dynamis “deal” is based upon a franchise business model designed to be repeated over and over again with local governments who are lured into approval by the “clean and green” mantra and the possibility of economic growth.

Any opposition to the Idaho Power application before the Idaho Public Utilities Commission runs the risk of being labeled as anti-clean, anti-green, and anti-environment. But these are not the issues to be decided. The real issue is whether we saddle the next generation of Idahoans with obligations that are not economically feasible. The simple question is: Why would Idaho Power agree to pay Dynamis far more than any other alternative energy provider?

The Idaho Public Utilities Commission is taking comment on the Dynamis "deal" through February 2, 2012. Comments are accepted via e-mail by accessing the Commission's homepage at www.puc.idaho.gov and clicking on "Comments & Questions About a Case." Fill in the case number (IPC-E-11-25) and enter your comments. Comments can also be mailed to P.O. Box 83720, Boise, ID 83720-0074 or faxed to (208) 334-3762. Be sure to join the list of "Interested Parties."

The public's only opportunity to express views on the Dynamis "deal" is to submit comments before February 2. As of today, there will be no public hearing for you to attend. Our Public Utility Commissioners will read and respect your comments, but only if you beat the February 2 deadline.

The full text of the Commission's order in this application, along with other documents related to this case, are available on the Commission's Web site at www.puc.idaho.gov. Click on "File Room" and then on "Electric Cases" and scroll down to the above case number.

The Ada County Commissioners can be reached at (208) 287-7000.

Jon M. Steele
Runft & Steele Law Offices, PLLC
1020 W. Main St. Ste 400
Boise, Idaho 83702
(208) 333-9495

PRESS RELEASE

Backdoor Politics: Ada County Commissioners and Dynamis Energy, LLC Chapter 2

We are all in favor of renewable energy. We favor renewable energy so much that our lawmakers have made it a favored industry. If it's renewable a project receives favorable press, tax status, and all the benefits our lawmakers can dole out. Unfortunately, some lawmakers do not know how to identify a renewable energy project.

The theory behind renewable energy is to encourage clean energy like solar, wind, biomass, geothermal, and landfill gas generators. Typically these alternative or renewable energy projects must spend a significant amount of time and money securing and analyzing the motive force that leads to the generation of electricity before they commit to project contracts.

The Dynamis project skips the analysis phase and goes straight to the project contracts. Should the Idaho Public Utilities Commission approve this "deal" between Dynamis Energy, LLC and Idaho Power Company it would be signing off on technology that has no operational history anywhere in the world.

The garbage business has become big business. The Dynamis project, in the renewable energy arena, is huge. Dynamis projects the cost at \$60,000,000.

Idaho Power is obligated by federal energy law to offer to purchase the electricity that may be generated by the Dynamis "project," even though Idaho Power is choking on renewable energy projects. They have enough wind generation contracts in the works to exceed any other single source of generation – hydro, coal, natural gas or renewables – that exists on Idaho Powers' systems.

This boondoggle assumes the technology will work. But Dynamis has not made that promise to anyone. In fact, according to Dynamis, the technology is "experimental." Idaho Power disclaims any responsibility for the Dynamis technology.

The Dynamis "sales pitch" is that using their "experimental technology" garbage will not have to be pretreated, sorted or shredded. The problem with the sales pitch is that garbage contains "biogenic" material, such as paper, yard trimmings and food waste and "non-biogenic" material like plastics, rubber, and metals. Incinerating the biogenic materials is good. But incinerating the non-biogenic materials is bad. The non-biogenic materials are considered the same as burning fossil fuels, like coal.

Our Idaho Public Utility Commission should take another look at the Dynamis project. Other states, like Arizona, are struggling with the question of whether trash to energy is a renewable energy source.

The Dynamis sales pitch works. Ada County handed over almost 2 million dollars and signed a sweetheart deal leasing property to Dynamis for 20 years at \$1 a year.

Last week Bonneville, Madison, Clark, and Fremont Counties signed up for the same sweetheart deal for \$15,000 each. Nampa passed on the sales pitch after commissioning a \$250,000 study.

It's time to bring this boondoggle to a halt.

The Idaho Public Utilities Commission is taking comment on the Dynamis "deal" through February 2, 2012. Comments are accepted via e-mail by accessing the Commission's homepage at www.puc.idaho.gov and clicking on "Comments & Questions About a Case." Fill in the case number (IPC-E-11-25) and enter your comments. Comments can also be mailed to P.O. Box 83720, Boise, ID 83720-0074 or faxed to (208) 334-3762.

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The Ada County Commissioners can be reached at (208) 287-7000. Commissioner Vern Bisterfeldt has opposed the Dynamis deal.

Jon M. Steele
Runft & Steele Law Offices, PLLC
1020 W. Main St. Ste 400
Boise, Idaho 83702
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AGREEMENT NO. 8952

**CONTRACT
FOR PROFESSIONAL CONSULTING
SERVICES BETWEEN ADA COUNTY
AND DYNAMIS ENERGY, LLC
WHERE THE FEE IS ACTUAL COST
WITH A GUARANTEED MAXIMUM
PRICE**

ADA COUNTY WASTE TO ENERGY PROJECT

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AGREEMENT NO. _____

**CONTRACT FOR PROFESSIONAL SERVICES
BETWEEN OWNER AND DYNAMIS ENERGY, LLC**

THIS CONTRACT FOR PROFESSIONAL SERVICES BETWEEN OWNER AND CONSULTANT (the "Contract") is made and entered into by Ada County, a duly formed and existing county pursuant to the laws and Constitution of the State of Idaho, (the "Owner") and Dynamis Energy, LLC, an Idaho Limited Liability Company (the "Consultant").

The professional services required by this Contract are to be rendered for a design of a 250 ton per day waste to energy facility at the Hidden Hollow Sanitary Landfill (the "Project").

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements stated herein, and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Owner and the Consultant agree:

ARTICLE I.

REPRESENTATIONS AND WARRANTIES

By executing this Contract, the Consultant makes the following express representations and warranties to the Owner:

A. The Consultant will be professionally qualified to act in whatever capacity required for the Project and licensed to practice in that capacity by all public entities having jurisdiction over the Consultant and the Project;

B. The Consultant shall maintain all necessary licenses, permits, or other authorizations necessary to act as Consultant for the Project until the Consultant's duties hereunder have been fully satisfied;

C. The Consultant has become familiar with and examined the Project site, facilities, existing structures, and the local conditions under which the Project is to be designed, constructed, and operated;

D. The Consultant shall prepare all documents and items required by this Contract including, but not limited to, designs, advice, reports, needs assessments, and all

contract plans and specifications. Such documents and items shall be accurate, coordinated, adequate for construction, sufficient to accomplish the purposes of the Project, and shall be in conformity and comply with all applicable laws, codes, and regulations.

E. The Consultant assumes full responsibility to the Owner for the improper acts and/or omissions (excluding intentional acts) of its consultants or others employed or retained by the Consultant in connection with the Project, but not for acts and omissions expressly directed by the Owner; and

F. Consultant shall promptly notify Owner of any material changes in Consultant's duties for the Project.

ARTICLE II.

**PRELIMINARY CONSULTATION, EXAMINATION,
AND REPORT OF OWNER'S CRITERIA**

Owner shall name a liaison for the Project. Prior to the preparation of the Preliminary Design as required by Article III below, the Consultant shall first consult in detail with the Owner and shall carefully examine any information provided by the Owner concerning the Owner's purposes, concepts, desires, existing facilities, and requirements (the "Owner's Criteria"), including, but not limited to, the Preliminary Owner's Criteria attached hereto as Exhibit "B" and any design, construction, scheduling, budgetary, or operational Project needs, restrictions, or requirements. Following such examination, the Consultant shall prepare and submit to the Owner a written report detailing the Consultant's understanding of the Owner's Criteria and identifying any design, construction, scheduling, budgetary, operational, or other problems or recommendations which may result from the Owner's Criteria. The report shall contain a preliminary Master Schedule containing both a design and construction schedule. The written report of the Consultant shall also include proposed solutions, if appropriate, addressing each of such identified problems.

Owner shall review the report with the Consultant in a timely manner.

ARTICLE III.

PRELIMINARY DESIGN

After reviewing with the Owner the written report required by Article II above, agreeing upon any proposed solutions to identified problems resulting from the Owner's Criteria, and in accordance with Article IX hereof, the Consultant shall draft and submit to the Owner a Preliminary Design for the Project. The Preliminary Design shall be consistent with the Owner's Criteria, as, and if, modified and shall include all of the following tasks which apply:

A. Preliminary plans that depict, as appropriate, each of the basic aspects of the Project including, but not necessarily limited to, the size, location, and dimensions of each structure, machine, and component;

B. Preliminary plans which depict each exterior view of each structure, machine, and component;

C. A floor plan for each pad and covered structure within the Project and the dimensions thereof;

D. Written preliminary specifications, together with preliminary plans, if and as necessary or useful to the Owner, of the architectural, electrical, mechanical, geotechnical, hydrological, structural, engineering and, if relevant, other systems to be incorporated in the Project;

E. A site analysis of contributing county waste streams and environmental conditions, as required to complete paragraphs G and H of this Article and Consultant's tasks described in Article IV;

F. Identify external utilities, permits, and licenses necessary for plant construction, as required to complete paragraphs G and H of this Article and Consultant's tasks described in Article IV below;

G. Develop and submit the Preliminary Engineering Plan (PER) for the Project to State of Idaho Department of Environmental Quality;

H. Development and submittal of Air Quality Models associated with the Project to State of Idaho Department of Environmental Quality;

I. A written description of the equipment and materials to be specified for the Project and the location of same; and

J. Any other documents or things necessary or appropriate to describe and depict the Preliminary Design and the conformity of same with the Owner's Criteria (as, and if, modified as set forth above) for the Project.

ARTICLE IV.

DESIGN FOR CONSTRUCTION

Upon written direction from the Owner, after reviewing with the Owner the Preliminary Design required by Article III above, and after incorporating any changes or alternations authorized or directed by the Owner with respect to the Preliminary Design or with respect to the Owner's Criteria, as, and if, modified, and in accordance with Article IX hereof, the Consultant shall draft and submit to the Owner the Design for Construction. The Design for Construction and Consultant's tasks shall include, but shall not necessarily be limited to:

A. Plans and specifications which describe with specificity all systems, elements, details, components, materials, equipment, and other information necessary for construction;

B. The Design for Construction shall be accurate, coordinated, and in all respects adequate for construction and shall be in conformity, and comply, with all applicable law, codes, and regulations;

C. Products, equipment, and materials specified for use shall be readily available unless written authorization to the contrary is given by the Owner;

D. In preparing the Design for Construction, the Consultant shall retain an experienced, qualified geotechnical consultant to evaluate all geotechnical considerations relating to the design and construction of the Project. The Consultant shall be responsible for designing the Project in accordance with the analyses and recommendations of its geotechnical consultant;

E. Consultant shall prepare and submit the Final Engineering Plan for the Project to State of Idaho Department of Environmental Quality in order to receive a construction permit for Project;

F. Consultant shall submit construction permits to Ada County Development Services Department; and

G. Consultant shall complete a Power Interconnection Impact Study.

ARTICLE V.

[RESERVED]

ARTICLE VI.

[RESERVED]

ARTICLE VII.

[RESERVED]

ARTICLE VIII.

INDEMNITY

A. In the event the Owner is alleged to be liable in any manner, as a result of acts, omissions, or negligence of Consultant, the Consultant shall indemnify and hold the Owner harmless from and against all liability, claims, loss, costs, and expenses arising out of, or resulting from, the services of the Consultant. In the event the Owner is alleged to be liable on account of alleged acts, omissions, or negligence, or all three (3), of the Consultant, the Consultant shall defend such allegations through counsel chosen by the Owner and the Consultant shall bear all costs, fees, and expenses of such defense, including, but not limited to, all attorney fees and expenses, court costs, and expert witness fees and expenses;

B. In the event the Consultant is alleged to be liable in any manner, as a result of acts, omissions, or negligence of Owner, the Owner shall indemnify and hold the Consultant harmless from and against all liability, claims, loss, costs, and expenses arising out of, or resulting from, the actions of the Owner. In the event the Consultant is alleged to be liable on account of alleged acts, omissions, or negligence, or all three (3), of the Owner, the Owner shall defend such allegations through counsel chosen by the Consultant and the Owner shall bear all costs, fees, and expenses of such defense, including, but not limited to, all attorney fees and expenses, court costs, and expert witness fees and expenses; and

C. In case of negligence or willful misconduct of both the Consultant and the Owner, or their employees or agents, all costs and fees, including but not limited to attorney fees, expenses, court costs, expert witness fees and expenses, shall be apportioned between Consultant and Owner according to the relative degree of negligence or misconduct with the right of indemnity applying to such proportion.

ARTICLE IX.

SCHEDULE

Time is of the essence in the performance of this Contract. The schedule of performance of Consultant shall be as provided in Exhibit C. Such schedule, approved by the Owner, shall constitute the schedule for performance of its duties hereunder by the Consultant.

ARTICLE X.

PERSONNEL

The Consultant shall assign only qualified personnel to perform any service concerning the Project. At the time of execution of this Contract, the parties anticipate that the following named individuals will perform those functions indicated:

<u>NAME</u>	<u>FUNCTION</u>
<u>Roger Kolb</u>	<u>Engineer of Record</u>
<u>Chas Ariss</u>	<u>Consulting Engineer</u>
<u>Doyle Pergande</u>	<u>Civil Engineer</u>

So long as the individuals named above remain actively employed or retained by the Consultant, they shall perform the functions indicated next to their names, subject to Owner's continued reasonable approval.

ARTICLE XI.

PAYMENTS

For its assumption and performance of the duties, obligations, and responsibilities set forth herein, the Consultant shall be paid as follows:

A. The Consultant shall be paid for those services required by this Contract the actual cost of services and expenses described in section C of this Article XI, but in all events not to exceed One Million Nine Hundred Eighty-Seven Thousand Five Hundred and no/100 Dollars (\$1,987,500.00) the Guaranteed Maximum Price, and provided further that actual costs paid by Owner will not exceed the following draw schedule:

July 15, 2010	\$150,000.00
July 31, 2010	\$150,000.00
August 31, 2010	\$500,000.00
September 30, 2010	\$500,000.00
December 17, 2010	\$343,750.00

Consultant will maintain accounting records in accordance with generally accepted accounting principles and practices to substantiate all invoiced amounts. These records will be available to Owner during Consultant's normal business hours for a period of one (1) year after Consultant's final invoice. During that year and thereafter, Consultant's records will be accessible in accordance with applicable law;

B. For the assumption and performance of any duties, obligations, and responsibilities, other than those services contemplated by this Contract, provided same are first authorized in writing by the Owner, the Consultant shall be paid as follows:

Roger Kolb @ \$350 per hour

Chas Ariss @ \$270 per hour

Doyle Pergande @ 270 per hour;

C. Authorized Actual Costs: Consultant shall be entitled to receive payment for the actual cost of the materials and services described in this Section X.C and may include thereon a markup not to exceed 10% to cover overhead and profit, but provided however, that Owner shall pay all governmental permits and fees directly with no markup added thereon:

1. Printing and reproduction of plans, specifications, and other writings or things;
2. Wages paid for labor in the direct employ of Consultant provided by Consultant for design of the Project;
3. Cost of employee benefits and taxes including but not limited to worker's compensation, unemployment compensation, social security, health insurance, and other fringe benefits as required by law;
4. Transportation costs reasonably related to design of the Project and approved by Owner in advance;
5. The cost of materials and supplies incorporated into the contract documents;
6. The cost of payments to subcontractors for work performed in the design of the Project;
7. Permits, fees, licenses, tests and royalties required to complete the scope of services described in the Owner's Criteria as it may be further refined in the course of completing the Project;
8. The premium cost, if any, of a performance bond in the amount of not less than 95% of the Guaranteed Maximum Price; and
9. Costs directly incurred by Consultant in the design of the Project which are reasonably inferable from the Contract Documents.

On condition that Consultant obtain a performance bond in the amount of at least 95% of the Guaranteed Maximum Price Consultant shall be able to add a markup of not more than 15% of the materials and services described in this Section XI.C with the exception that no markup shall be allowed on the cost of the performance bond nor on governmental permits and fees, which Owner shall pay directly.

D. If the Consultant's duties, obligations, and responsibilities are materially changed through no fault of the Consultant after execution of this Contract, and notice has been provided pursuant to Paragraph I.F above, compensation due to the Consultant shall be equitably adjusted, either upward or downward;

E. As a condition precedent for any payment due under this Article XI, the Consultant shall submit at least once per month, but not more often than every two weeks, unless otherwise agreed in writing by the Owner, an invoice to the Owner requesting

payment for the actual cost of services properly rendered and expenses due hereunder. The Consultant's invoice shall describe with reasonable particularity each service rendered, the date thereof, the time expended if such services were rendered pursuant to Paragraph XI.B, XI.C or XI.D hereinabove, and the person(s) rendering such service. The Consultant's invoice shall be accompanied by such documentation or data in support of expenses for which payment is sought as the Owner may require. Each invoice shall bear the signature of the Consultant, which signature shall constitute the Consultant's representation to the Owner that the services indicated in the invoice have reached the level stated, have been properly and timely performed as required herein, that the expenses included in the invoice have been reasonably incurred in accordance with this Contract, that all obligations of the Consultant covered by prior invoices have been paid in full, and that the amount requested is currently due and owing, there being no reason known to the Consultant that payment or any portion thereof should be withheld. Submission of the Consultant's invoice for final payment shall further constitute the Consultant's representation to the Owner that, upon receipt by the Owner of the amount invoiced, all obligations of the Consultant to others, including its consultants, incurred in connection with the Project, will be paid in full;

F. In the event that the Owner becomes credibly informed that any representations of the Consultant as set forth in Paragraph XI.E are wholly or partially inaccurate, the Owner may withhold payment of sums then or in the future otherwise due to the Consultant, to the value of the inaccuracy, until the inaccuracy, and the cause thereof, is corrected to the Owner's reasonable satisfaction; and

G. The Owner shall make payment to the Consultant of all sums properly invoiced under the provisions of this Article XI within thirty (30) days of the Owner's receipt of such invoice. If such payment is not made within thirty (30) days, interest at the rate of .75% per month will be paid, computed on the outstanding balance.

ARTICLE XII

PROJECT RECORD AVAILABILITY AND RETENTION

A. All records relating in any manner whatsoever to the Project, or any designated portion thereof, which are in the possession of the Consultant or the Consultant's consultants, shall be made available to the Owner for inspection and copying upon written request of the Owner. Additionally, said records shall be made available, upon request by the Owner, to any state, federal, or other regulatory authorities and any such authority may review, inspect, and copy such records. Said records include, but are not limited to, all plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings or things which document the Project and its design. Said records

expressly include those documents reflecting the time expended by the Consultant and its personnel in performing the obligations of this Contract and the records of expenses incurred by the Consultant in its performance under said Contract. The Consultant shall maintain and protect these records for no less than six (6) years after substantial completion of the Project or for any longer period of time as may be required by applicable law or good engineering practice; and

B. All public records relating in any manner whatsoever to the Project, or any designated portion thereof, that are in the possession of the Owner, shall be made available to the Consultant for inspection and copying upon written request of the Consultant.

ARTICLE XIII.

DUTIES, OBLIGATIONS, AND RESPONSIBILITIES OF THE OWNER

The Owner shall have and perform the following duties, obligations, and responsibilities to the Consultant:

A. The Owner shall provide the Consultant with the Owner's Criteria;

B. The Owner shall review any documents provided by or through the Consultant requiring the Owner's decision and shall make any required decisions;

C. The Owner shall, at its own expense, furnish a legal description and any necessary survey of the real property upon which the Project is situated;

D. [Reserved]

E. [Reserved]

F. The Owner shall afford the Consultant access to the Project site as may be reasonably necessary for the Consultant to properly perform its services under the Contract Documents;

G. The Owner shall perform its duties set forth in this Article in a timely manner; and

H. Except for documents requiring the Owner's decision as set forth in Paragraph XIII.B above, the Owner's review of any documents prepared by the Consultant or its consultants shall be solely for the purpose of determining whether such documents are generally consistent with the Owner's Criteria, as, and if, modified. No review of such

documents shall relieve the Consultant of its responsibility for the accuracy, adequacy, fitness, suitability, or coordination of its work product.

ARTICLE XIV.

APPLICABLE LAW

The law applicable to this Contract is hereby agreed to be the law of the state where the Project is situated. Any controversy or claim arising out of or relating to this Contract, or breach thereof, must be first submitted to mediation by a mediator mutually acceptable to the parties and, if not resolved by mediation, may be finally determined by litigation. Any action shall be filed in Fourth District Court in Ada County, Idaho.

ARTICLE XV.

OWNERSHIP OF THE CONTRACT DOCUMENTS

A. Contract Documents.

1. The Preliminary Report, Preliminary Design, Design for Construction, and all other Contract Documents specifically including, but not limited to, those documents, plans and lists described in Exhibit "B," shall become and be the sole property of the Owner. The Consultant may maintain copies thereof for its records and for its future professional endeavors. The Owner and the Consultant agree that all architectural, engineering and design work prepared for the Project, including but not limited to, drawings, plans and specifications, and other Contract Documents, is work made for hire, and all intellectual property rights in such work therefore vest in the Owner at the time of their completion. If for any reason such architectural work is not considered a work made for hire under applicable law, in consideration for the promises and covenants contained in this Contract, the Consultant does hereby sell, assign, and transfer to Owner, its successors and assigns, at the time of completion, the entire right, title and interest in and to the copyright in the engineering, design, and architectural work and any registrations and copyright applications relating thereto and any renewals and extensions thereof.

2. The Contract Documents are not intended by the Consultant for use on other projects by the Owner or others. Any reuse by the Owner or by third parties without the written approval of the Consultant shall be at the sole risk of the Owner and the Owner shall indemnify and save harmless the Consultant from any and all liability, costs, claims, damages, losses, and expenses including attorney fees arising out of, or

resulting from, such reuse; provided, however, that this Contract to indemnify and save harmless shall not apply to any reuse of documents retained by, or through, a contractor obtained by Owner to complete the construction and installation of the Project.

B. Consultant's Technology.

1 Ownership of Intellectual Property. Notwithstanding the ownership of the Contract Documents set forth in Article 15, Owner acknowledges the proprietary rights Consultant has in Consultant's Technology. "Consultant's Technology" shall mean patent rights, know-how, trade secrets, inventions, processes, formulas, methodologies, and any copyrighted materials, whether or not patentable, necessary or useful for the manufacture, use, or sale of products that are covered by a valid claim of one or more issued, expired, or unexpired patents intended for use with or on the Dynamis 3.0 waste-to-energy technology. Owner agrees that Consultant owns all right, title, and interest in and to Consultant's Technology, any improvements thereto, as of the date of conception, to Consultant's Technology, and all intellectual property rights therein; provided however, such continued ownership shall not interfere with Owner's ownership of the Contract Documents acquired in Section X.V.A or the free use of the Technology License granted in Section X.V.B.2 hereof.

2 License. Consultant hereby grants to Owner an exclusive, perpetual, irrevocable, fully paid-up, royalty-free, right and license to use Consultant's Technology as contained in the Contract Documents (the "Technology License"), for utilizing such to develop the Project as it deems appropriate. Any license granted under this Section X.V.B.2 shall be limited to any projects utilizing the Consultant's Technology contained in the Contract Documents to be developed at the Owner's Hidden Hollow Sanitary Landfill. The Parties agree that any licensed technology granted hereby will not be used in any other context or for any other locations.

3 Notice of Violation. Owner agrees to promptly notify the Consultant in writing of any infringement or misappropriation or claim of infringement of third party rights in respect of any of Consultant's Technology related to the license issued herein to which Owner becomes aware and will provide the Consultant with any and all evidence in its possession, if any, of such infringement or misappropriation.

4 Duty of Cooperation. In the event of any infringement or misappropriation or claim of infringement of third party rights in respect of the Consultant's Technology, the Consultant will have the right to determine an appropriate course

of action to enforce or defend Consultant's Technology or otherwise abate the infringement or misappropriation thereof, to take (or refrain from taking) appropriate action to enforce or defend Consultant's Technology, and, in the event that the Consultant elects to take action, to control any litigation or other enforcement action, to enter into or permit the settlement of any such litigation or any other enforcement action with respect to Consultant's Technology, and to recover and retain any monetary damages, settlement, royalties or other recovery arising from such litigation or other enforcement action. Owner will use reasonable efforts to cooperate with the Consultant at the Consultant's expense, in any litigation or enforcement action under this Section X.V.B.4 and Owner will join as a party to any such litigation or other enforcement action as required by law at the Consultant's sole expense. Consultant shall indemnify and hold harmless Owner against any and all losses arising out of or in relation to (i) any such cooperation given by Owner to Consultant and (ii) Owner joining as a party to such litigation or other enforcement action, which losses may include, without limitation, payment by Owner of any third party legal costs as a result of Owner joining as a party to such litigation or enforcement action.

C. **Put and Call Provisions.** Owner and Consultant agree that the design of the Project and the Contract Documents created by this Contract are experimental technologies. Owner, after review and at its discretion, may not want to proceed with procuring and installing the Project. Consultant, after review and in its discretion may want to proceed in the absence of Owner's decision to proceed. Owner and Consultant therefore enter into a mutually available put and call

1. **Put Option.** Owner may require, at its discretion, Consultant to purchase the Contract Documents and the Technology License from Owner (the "Put Option") at the agreed upon Put Option Price. The Put Option shall begin upon completion or termination of this Contract, whichever occurs sooner, and shall continue for a period of 365 days thereafter (the "Put Option Period"), unless (a) the Put Option is exercised or (b) Consultant exercises and performs under the Call Option. The Put Option Period may be extended upon mutual agreement of the parties.

2. **Put Option Payment.** Consultant shall pay Owner an amount equal to the amounts drawn from Ada County under Article XI (the "Put Option Payment"). The Put Option Payment is due and payable within Ninety (90) calendar days of Owner placing a written notice of its intent to exercise the Put Option in the United States Mail, certified return receipt requested, addressed to Consultant, postage prepaid.

3. **Call Option.** Consultant shall have the right, but not the obligation, to

purchase the Contract Documents and the Technology License from Owner (the "Call Option") at the agreed upon Call Option Price. The Call Option shall begin upon completion or termination of this Contract, whichever occurs sooner, and continue for a period of 365 days (the "Call Option Period"), unless (a) the Put Option is exercised and paid in full, or (b) Put Option Terminates. The Call Option Period may be extended upon mutual agreement of the parties.

4. Call Option Payment. Consultant shall pay Owner an amount equal to the amounts drawn from Ada County under Article XI (the "Call Option Payment"). The Call Option Payment is due and payable within Ninety (90) calendar days of Consultant placing a written notice of its intent to exercise the Call Option in the United States Mail, certified return receipt requested, addressed to Owner, postage prepaid.

ARTICLE XVI.

SUCCESSORS AND ASSIGNS

The Consultant shall not assign its rights hereunder, excepting its right to payment, nor shall it delegate any of its duties hereunder without the written consent of the Owner. Subject to the provisions of the immediately preceding sentence, each party hereto binds itself, its successors, assigns, and legal representatives to the other and to the successors, assigns, and legal representatives of such other party.

ARTICLE XVII.

NO THIRD PARTY BENEFICIARIES

A. Nothing contained herein shall create any relationship, contractual or otherwise, with, or any rights in favor of, any third party;

B. The presence or duties of Consultant's and Owner's personnel at a construction site, whether as on-site representatives or otherwise, do not make any of them or their representatives or personnel in any way responsible for those duties that belong to the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to any health or safety precautions required by such construction work. Consultant's and Owner's personnel have no authority to exercise any control over any construction contractor or other entity or their employees in connection with their work or any health or

safety precautions and have no duty for inspecting, noting, observing, correcting, or reporting on health or safety deficiencies of the construction contractor(s) or other entity or any other persons at the site except their own personnel. The presence of Consultant's or Owner's personnel at a construction site is for the purpose of providing to Owner a greater degree of confidence that the completed work will conform to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by the construction contractor(s); and

ARTICLE XVIII.

INSURANCE

The Consultant shall have and maintain insurance at all times this Contract is in effect and for the stated periods after final completion of the Project in accordance with the requirements of Exhibit A attached hereto and incorporated herein by reference.

ARTICLE XIX.

TERMINATION

A. Either party hereto may terminate this Contract upon giving seven (7) days written notice to the other in the event that such other party substantially fails to perform its material obligations set forth herein;

B. This Contract may be terminated by the Owner without cause upon seven (7) days written notice to the Consultant. In the event of such a termination without cause, the Owner shall pay the Consultant for all services rendered prior to the termination, plus any expenses incurred and unpaid which would otherwise be payable hereunder. In such event, the Consultant shall promptly submit to the Owner its invoice for final payment which invoice shall comply with the provisions of Article XI; and

C. Unless terminated, the term of this Contract shall be from the effective date hereof until final completion of all duties required herein.

ARTICLE XX.

ENTIRE AGREEMENT

This Contract constitutes the entire and exclusive agreement between the parties with reference to the Project and supersedes any and all prior communications, discussions, negotiations, understandings, or agreements.

This Contract shall be effective on the date executed by the last party to execute it.

OWNER
Board of Ada County Commissioners

6/30/10
Date executed

By: Fred Tilman
Fred Tilman, Chairman

By: Sharon M. Ullman
Sharon M. Ullman, Commissioner

By: Rick Yzaguirre
Rick Yzaguirre, Commissioner

ATTEST:

David Navarro
David Navarro, Ada County Clerk

EXHIBIT A

INSURANCE & BONDING

A. **Consultant**, at its sole expense, shall procure and maintain in full force and effect insurance written by an insurance company or companies with Best's rating(s) of A VIII or better. All insurance companies must be authorized to do business in the state of Idaho. By requiring insurance herein, Ada County does not represent that coverage and limits are necessarily adequate to protect **Consultant**, and such coverage and limits shall not be deemed as a limitation on **Consultant's** liability under the indemnities granted to Ada County in this contract.

B. Certificates of Insurance evidencing the coverages required herein shall be provided to Ada County prior to the start date of the project. All certificates must be signed by an authorized representative of **Consultant's** insurance carrier and must state that the issuing company, its agents, or representatives will provide Ada County thirty (30) days written notice prior to any policies being canceled or materially changed. Renewal certificates or binders must be provided to Ada County a minimum of five (5) days prior to the effective date of the renewal. If binders are used, they must be replaced by appropriate insurance certificates no more than thirty (30) days after the effective date.

C. Certificates shall be mailed to:

Dave Logan, Director
Ada County Operations
200 W. Front Street, 3rd Floor
Boise, Idaho 83702-7300

D. Certificates must evidence the following minimum coverages:

1. **Workers' Compensation** insurance meeting the statutory requirements of the State of Idaho.

2. **Employers' Liability** insurance providing limits of liability in the following amounts:

Bodily Injury by Accident:	\$100,000 each accident
Bodily Injury by Disease:	\$500,000 policy limit
Bodily Injury by Disease:	\$100,000 each employee

3. **Commercial General Liability** insurance providing limits of liability in the following amounts, with aggregates applying separately on a "per project" basis:

General Aggregate:	\$2,000,000
Product/Completed Operations Aggregate:	\$2,000,000
Personal & Advertising Injury Liability:	\$1,000,000
Each Occurrence:	\$1,000,000
Fire Damage:	\$ 50,000

The Commercial General Liability ("CGL") insurance policy shall be written on an "Occurrence" form and shall cover liability arising from premises, operations, independent contractors, products, completed operations, personal injury, advertising injury, and liability assumed under an insured contract (including tort liability of another assumed in a contract). Ada County and its elected officials, agents, employees, successors and assigns shall be included as Additional Insureds under the CGL with the Additional Insured endorsement providing coverage for Completed Operations.

4. **Business Automobile Liability** insurance providing bodily injury and property damage liability coverage for not less than \$1,000,000 each accident limit. Business Automobile Liability insurance shall be written on a standard ISO policy form, or an equivalent form, providing coverage for liability arising out of owned, hired, or non-owned vehicles in connection with this Contract.

5. **Professional Liability** insurance with limits of not less than \$1,000,000 per claim and \$1,000,000 aggregate, naming Ada County as an additional named insured. If the insurance required by this section is obtained through a "Claims Made" policy, this coverage or its replacement shall have a retroactive date of not later than the inception of this Contract. Such insurance or its replacement shall also provide a minimum of five (5) years extended reporting coverage, or the maximum time under the State of Idaho statute of limitations for claims under this coverage, whichever is greater, after the Services are last provided under this Contract.

6. **Commercial Umbrella Liability** insurance providing liability coverage of \$1,000,000 each occurrence and \$1,000,000 aggregate with a retained limit not to exceed \$100,000. The Commercial Umbrella Liability policy must include in its Schedule of Underlying Insurances policies providing coverage as described in subparagraphs 2 through 5 above.

E. Each of Consultant's subcontractors, independent contractors, and suppliers shall procure and maintain equivalent insurance coverage as described in subparagraphs 1 through 5 above and certificates evidencing such coverage must be presented to the County before the subcontractors, independent contractors, or suppliers are permitted on the site of the project. If the subcontractors, independent contractors, and suppliers do not have the required insurance, Consultant's policies must provide equivalent coverage for the subcontractors, independent contractors, and suppliers and their work.

F. Bonding for this project shall be a guarantee from Consultant in a form reasonably satisfactory to Ada County's Risk Manager that Consultant will faithfully complete the tasks required in this Contract.

EXHIBIT B**PRELIMINARY OWNER'S CRITERIA FOR HIDDEN HOLLOW SANITARY
LANDFILL WASTE TO ENERGY PLANT DESIGN**

1. A Waste to Energy Plant of not less than 250 tons per day capacity;
2. The design for the Project must be scalable to site requirements for installation of additional capacity;
3. Nominal waste preparation required, i.e., no advance drying or grinding, unless required by state agencies or makeup of inbound waste stream;
4. No presorting of waste required, other than removal of large construction debris components;
5. Can accept and properly destroy household electronics including televisions and computer monitors;
6. The Project must require no stack emission equipment other than lime injection;
7. The Project must be eligible for the § 1603 Federal Tax Rebate or Renewable Energy Certificate;
8. The Project must take waste tires without additional equipment or post construction modification;
9. Contingent upon Idaho DEQ issuing appropriate engineering reports and permits, Consultant must complete the Design and Construction Drawings on the schedule required for application for Federal Tax Rebate or Renewable Energy Certificate in this calendar year;
10. The Project must have an energy generating capacity of at least 7MW/hr, which assumes a waste stream BTU value of 5,800 BTU/pound;
11. The Project must be compliant with electrical power cogeneration requirements of Idaho Power and the Idaho Public Utilities Commission;
12. The Project's exhaust must meet or exceed air quality discharge requirements of Idaho DEQ;

13. The Project's waste ash by-product must be capable of, and be regulatory compliant with, being landfilled in the Hidden Hollow Sanitary Landfill North Ravine Cell;
14. The Project must be designed to be financeable by, and in compliance with, the requirements of the Idaho Energy Resources Authority, in whole or in at least a material part;
15. Consultant must identify all external utilities, permits, and licenses necessary for plant construction;
16. Consultant must develop and submit a Preliminary Engineering Plan to the Idaho DEQ no later than October 30th, 2010;
17. Consultant must develop and submit Air Quality Models to the Idaho DEQ no later than October 30th, 2010;
18. Consultant must submit a Final Engineering Plan to the Idaho DEQ no later than November 15th, 2010; and
19. The Consultant must develop a complete component procurement list and cost estimate for the facility no later than October 30, 2010.

EXHIBIT C

PROJECT TIMELINE

**CONTRACT FOR PROFESSIONAL SERVICES BETWEEN OWNER AND DYNAMIS
ENERGY, LLC - EXHIBIT C**



Ada County Project Timeline

Legend:		Pre-Construction Timeline					
		Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
<p>Local Permits</p> <p>Secure Waste Stream</p> <p>Purchase Agreements</p> <p>Identify Utilities, Licenses and Permitte required</p> <p>Conduct Site Analysis include waste streams and environmental</p>	<p>State Permits, include Air Quality Models</p> <p>Project Financing</p> <p>Land Acquisition</p> <p>Order and Secure Permanent Utilities</p> <p>Order and Secure Construction Utilities</p> <p>Final Site Inspection</p> <p>Preliminary Design and Pricing</p> <p>Detail Design and Engineering</p> <p>Renewable Energy Resource Qualification</p> <p>Submit Final Engineering Plan to Ada County</p> <p>Project Approval</p> <p>Ground Breaking</p>	DE	DE	DE	DE	DE	DE
<p>AC-Ada County</p> <p>Order Long Lead Turbines</p> <p>Equipment Selection and Procurement</p>	<p>Total Time Elapse by Month</p>	DE	DE	DE	DE	DE	DE

AGREEMENT NO. 9385

**FRANCHISE AGREEMENT
BETWEEN ADA COUNTY AND DYNAMIS ENERGY, LLC**

HIDDEN HOLLOW WASTE TO ENERGY PROJECT

PROJECT NO. _____

LANDFILL WASTE TO ENERGY FRANCHISE AGREEMENT

THIS FRANCHISE AGREEMENT, dated as of this ___ day of _____, 2011 ("Franchise Agreement"), is by and between Dynamis Energy LLC, an Idaho limited liability company (the "Franchisee"), and Ada County, Idaho, a duly organized and existing county under the laws and constitution of the State of Idaho (the "County").

RECITALS AND FINDINGS

- A. County owns and operates County's Facility at which County collects, places, compresses, and covers Municipal Solid Waste.
- B. County provided an opportunity to the private sector to provide new technologies applicable to recycling, waste reduction and energy production from Municipal Solid Waste and to that end solicited and received proposals.
- C. Franchisee submitted a proposal to design, construct, operate, and maintain a waste to energy facility located at County's Facility, which was accepted by County.
- D. The Board determined to enter into negotiations with Franchisee, which has resulted in this Franchise Agreement.
- E. As part of that negotiation the Board determined to pay Franchisee to design a waste to energy facility, which design, rights, and intellectual property the County would own, subject to purchase by Franchisee.
- F. During the period of this Franchise Agreement Franchisee has agreed to take a minimum average of 408 tons of Municipal Solid Waste per calendar day delivered to its waste to energy facility at no charge to County for the purpose of securing a long-term supply of fuel for electric power generation. County and Franchisee have agreed that Franchisee may be allowed to take more.
- G. Franchisee has made arrangements and will be responsible for constructing, operating, and maintaining the waste to energy facility.
- H. The Board has determined that significant benefits to all Ada County residents can be obtained if the amount of waste being accepted and compacted in its landfills can be reduced and a steady electric power supply provided.
- I. County and Franchisee have mutually agreed that Franchisee's Facilities will fit upon and shall be located on the Premises.

J. County desires to provide to the Premises and the Franchisee desires to receive at the Premises Municipal Solid Waste in the quantities and upon the terms and conditions set forth herein.

K. The Board finds this franchise to be in the best interests of the public and the solid waste landfill rate payers.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein, the parties hereto agree as follows:

L

DEFINITIONS

The capitalized terms used in this Franchise Agreement shall have the meanings specified below:

- A. Board shall mean the Board of Ada County Commissioners.
- B. Commercial Operations Date shall mean the date the Franchisee's Facility receives a final certificate of occupancy and is ready to accept Municipal Solid Waste.
- C. County's Facility shall mean the Hidden Hollow Sanitary Landfill as described generally in Exhibit A.
- D. County Indemnitee shall mean County and its officials, employees, and agents.
- E. Delivery Point shall mean the point at which the entry road to the Premises reaches the boundary to the Premises as is further shown on Exhibit C.
- F. Effective Date shall mean November 1, 2011.
- G. Event of Default shall have the meaning ascribed to it under Section IX of this Agreement.
- H. Excess Waste shall mean County's Municipal Solid Waste received at the Hidden Hollow Sanitary landfill in excess of 572 tons per calendar day.
- I. Force Majeure shall mean acts of God; winds; hurricanes; tornadoes; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes; lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act, or orders of any kind of any governmental authorities acting in their regulatory or judicial capacity; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil disturbances; explosions; or any other cause or event, not reasonably within the control of the party claiming Force Majeure (other than the financial inability of such party), which actually precludes that party from carrying out, in whole or in material part, its obligations under this Franchise Agreement. Nothing in this provision is intended to excuse any party from performing due to any governmental act, failure to

act, or order, where it was reasonably within such party's power to prevent, correct, anticipate, or guard against such act, failure to act, or order.

- J. Franchisee's Facility shall mean the plant and equipment described in Exhibit D.
- K. Franchisee Indemnitee shall mean Franchisee and its directors, officers, employees, and agents.
- L. Good Engineering Practice shall mean any of the practices, methods and acts which comply with manufacturer's specifications and which, in the exercise of reasonable judgment by an independent engineering professional in light of the facts known, or which in the exercise of due diligence, should have been known at the time a decision was made, would have been expected to accomplish the desired result in a manner consistent with reliability, safety, environmental protection, expedition, project economics and applicable laws and regulations for similar facilities in the State of Idaho. "Good Engineering Practice" is not intended to be limited to the consideration of any one practice, method or act to the exclusion of all others, but rather is intended to require the consideration of a spectrum of possible practices, methods or acts which will yield the most desired and cost-effective result.
- M. Governmental Authorizations shall mean all applicable authorizations from, permits and licenses issued by, consents and approvals of, filings with, notices from, and registration with, any Government Entity (including all conditions thereof) which are currently required to be obtained, or may be required in the future.
- N. Government Entity shall mean any court or tribunal in any jurisdiction or any federal, state, municipal, or other governmental body, agency, authority, department, commission, board, bureau or instrumentality.
- O. Indemnified Party shall mean the party to whom it is claimed indemnification is due.
- P. Indemnifying Party shall mean the party from whom indemnification is being claimed.
- Q. Initial Term shall mean the period of time from the Effective Date to September 30, 2019.
- R. Losses shall mean any and all demands, claims, damages, liabilities, actions or causes of action, assessments, deficiencies, judgments, costs and expenses, including, but not limited to, legal fees, expenses, interest, penalties, and all amounts paid in investigation, defense or settlement of any of the foregoing, whether or not any such demands, claims, or allegations of third parties are meritorious.
- S. Municipal Solid Waste shall mean trash or garbage consisting of everyday items used and then thrown away, such as product packaging, grass clippings, furniture, clothing, bottles, food scraps, newspapers, appliances, paint, and batteries from homes,

schools, institutions and businesses collected by a municipal collection service and delivered to County's Facility.

- T. Processing Day shall mean those days in which Franchisee's Facility is processing Municipal Solid Waste.
- U. Operational Day shall mean days in which County's Facility is open for Municipal Solid Waste Disposal as determined by the Board or its delegee.
- V. Person shall mean any general partnerships, limited partnership, limited liability company, corporation, joint venture, trust, business trust, cooperative, association, other recognized and valid business forms, and individuals, including their heirs, executors, administrators, legal representatives, successors, and assigns of such persons where the context so admits.
- W. Premises shall mean the property to be leased to Franchisee and generally described in Exhibit C.
- X. Renewal Term shall mean a term of 5 consecutive fiscal years, each fiscal year commencing on October 1 and ending September 30 of the following calendar year.
- Y. Timetable shall mean the milestones provided in Exhibit E.
- Z. Unacceptable Waste means hazardous waste as defined in CFR Part 261 or other hazardous, dangerous, or toxic substances as defined pursuant to or listed or regulated under Federal or local law.
- AA. Weekly Aggregate shall mean a minimum total of 2856 tons of Municipal Solid Waste accumulated over a period of seven consecutive days commencing at 12:01 a.m. Monday.

II.

CONSTRUCTION AND OWNERSHIP OF FACILITIES

A. County's Facility.

1. County has certain responsibilities with respect to the collection and disposition of Municipal Solid Waste at County's Facility. Each obligation of County hereunder is conditioned on the consistency of such obligation with County's obligations with respect to Municipal Solid Waste collection and disposal at County's Facility. County shall in its sole discretion exercise, operate, manage, and preserve and amend County's interest and rights in and to the County's Facility in compliance with applicable rules, regulations and laws applicable to Municipal Solid Waste disposal.
2. County will retain ownership of County's Facility.
3. County will be responsible for and will pay all utilities necessary to operate County's Facility independent of the Franchisee. County will be responsible for all operation and maintenance of County's Facility, excluding the Premises and Franchisee's Facility.
4. County will be responsible for all day-to-day monitoring and security of County's Facility, excluding the Premises and Franchisee's Facility.
5. County's contact person to whom all communications regarding construction shall be delivered, addresses or forward, as the case may be, shall be the Ada County Director of Solid Waste Management.

B. Franchisee's Facility.

1. Franchisee will retain ownership of Franchisee's Facility, but not including the Premises.
2. Franchisee will be responsible for and will pay all utilities necessary to operate Franchisee's Facility independent of the County.
3. Franchisee will, at its sole cost, be responsible for monitoring, operating, repairing, upgrading, insuring and maintaining Franchisee's Facility.
4. Franchisee's use of the Premises and access to County's Facility is restricted to the construction, operation and maintenance of Franchisee's Facility.
5. All Municipal Solid Waste delivered by County to the Delivery Point, not being processed for immediate use, shall be stored indoors. No Municipal

Solid Waste shall be allowed to exit the Franchisee's Facility except as waste ash and/or recyclables not processed within Franchisee's Facility, which may be deposited in a licensed and regulated landfill or with another company that processes such waste ash and/or recyclables. Exterior storage of materials and other equipment, other than Municipal Solid Waste, is allowed with County's approval, which shall not unreasonably be withheld.

6. Franchisee must operate and maintain Franchisee's Facility to industry standards using Good Engineering Practice.
7. Franchisee shall submit for County's review and reasonable approval an Operations & Maintenance Plan containing, at a minimum, operating procedures and maintenance standards and schedules for Franchisee's Facility within twelve (12) months of the date of this contract and in any event, prior to the Commercial Operations Date.
8. Design of Franchisee's Facility.
 - a) County has entered into a Contract For Professional Services with Franchisee to design a waste to energy plant in Ada County Contract #8952. Franchisee warrants and covenants that it will produce plans and specifications sufficient to obtain and operate a waste to energy facility consuming 408 tons of Municipal Solid Waste per Processing Day.
 - b) Franchisee has been given a "first right of refusal" and a "call option" to purchase the plans and specifications produced pursuant to Ada County Contract #8952 as is more fully described in that contract.
 - c) County has a "put option" to cause Franchisee to purchase the plans and specifications produced pursuant to Ada County Contract #8952 as is more fully described in that contract.
9. Construction of Franchisee's Facility.
 - a) Franchisee shall be solely responsible for the acquisition, construction, installation and operation of Franchisee's Facility.
 - b) Franchisee's Facility must be designed in compliance with the plans and specifications developed by County in Ada County Contract #8952.
 - c) Franchisee shall obtain all necessary Governmental Authorizations in accordance with:
 - (1) The Timetable set forth on Exhibit E which includes specified milestones;

(2) Good Engineering Practice; and

(3) Applicable law.

d) Prior to the commencement of construction, Franchisee shall exercise the put option referenced above in section 8(c).

10. Franchisee must demonstrate to the satisfaction of the Board that it has obtained, or has written commitments for, financing for all costs of the Franchisee's Facility prior to commencing construction of Franchisee's Facility.
11. County shall lease to Franchisee the Premises upon which to construct and operate the Franchisee's Facility for a term of twenty years, and grant Franchisee all access rights necessary and reasonable to construct and operate Franchisee's Facility. Franchisee is to submit for County's review and approval (which approval shall not be unreasonably delayed or withheld), all proposed improvements to the Premises that Franchisee proposes to make.
12. During the period in which any portion of Franchisee's Facilities are being or are required to be, constructed or installed, Franchisee shall provide County, on the first date of each calendar quarter, written quarterly status reports of Franchisee's progress with respect to such construction or installation, as well as the status of any applications for Governmental Authorizations. Each quarterly written report prepared by Franchisee shall include an up to date description of Franchisee's progress towards achieving the milestones set forth in the Timetable.
13. If the Franchisee's Facilities have not commenced Commercial Operations within six (6) months after the date specified therefore on the Timetable, either party may terminate this Franchise Agreement upon written notice to the other party. This right of termination shall be County's sole remedy for Franchisee's failure to commence commercial operations.
14. Franchisee shall name a single contact person, with the authority to make binding decisions on behalf of Franchisee, to whom all communications regarding construction shall be delivered, addresses or forward, as the case may be.
15. Commencing upon the date of this Agreement, County hereby grants to Franchisee a limited license to access County's Facility and the Premises in order to construct, operate and maintain Franchisee's Facility. Access is limited to the roadways to the Premises.

C. Governmental Authorizations.

1. Each party shall be responsible for the purchase of its own emission credits and/or offsets, as required, and shall maintain the operational permits necessary or required for its own Facility.
2. Air quality and construction permits necessary to build Franchisee's Facility will be procured by the Franchisee through its engineer of record for the benefit of and in the name of Franchisee.

III.

OPERATIONAL REQUIREMENTS

A. Delivery of Municipal Solid Waste

1. Franchisee and County shall use reasonable, good faith efforts to coordinate the delivery of Municipal Solid Waste from County's Facility to the Delivery Point. The County will be responsible for its own costs in delivering Municipal Solid Waste to the Delivery Point. Franchisee will be responsible for its own costs in accepting Municipal Solid Waste at the Delivery Point and transporting it to Franchisee's Facility.
2. Franchisee shall be responsible for and the costs of delivering waste ash and/or recyclables from Franchisee's Facility to a licensed and regulated landfill and/or other commercial party. Should an alternative source of use for waste ash and/or recyclables be determined, County and Franchisee will negotiate in good faith regarding any regulatory requirements imposed by a Governmental Entity on the use, transport and delivery of waste ash and/or recyclables. ~~County will not charge Franchisee a tipping fee for waste ash and recyclables delivered to County's Facility from Franchisee's Facility.~~ County will not charge Franchisee or any commercial third party a tipping fee or access fee to County's Facility for purposes of removing ash waste and/or recyclables from Franchisee's Facility. Any Household Hazardous Waste identified by Franchisee's screeners and removed from the waste stream may be taken by Franchisee to County's Household Hazardous Waste Facility at no charge. Hazardous Waste (not including Household Hazardous Waste) shall be disposed of in compliance with Franchisee's Operating Plan.
3. Beginning on the first Operational Day following the Commercial Operations Date, County shall deliver a minimum of 408 and up to 572 tons of Municipal Solid Waste per Operational Day to the Delivery Point. Franchisee shall communicate to the Director of Solid Waste the amount of Municipal Solid Waste required for each Operational Day. The Parties agree that for purposes of this Agreement that the delivery of Municipal Solid Waste will be calculated as a Weekly Aggregate, which will enable the County and Franchisee to coordinate the delivery and storage of Municipal Solid Waste to account for and plan for Processing Days in which the County's Facility is

closed, such as scheduled holidays or planned closures. Franchisee may stock pile no more than 1224 tons of Municipal Solid Waste in an enclosed space on the Premises.

4. Interruptions or shortfalls of Municipal Solid Waste Delivery.

a) During the term of this Agreement, County will take all actions reasonably necessary to deliver Municipal Solid Waste to the Delivery Point ~~on a continuous basis~~. County may only suspend deliveries of Municipal Solid Waste if:

(1) In County's reasonable opinion the operation of Franchisee's Facility is having a demonstrable adverse impact on the operation of County's Facility subject to the provisions set forth in section III.A.4.f. below;

(2) The day is not an Operational Day;

(3) County determines to undertake maintenance or repairs of County's Facility such that delivery of Municipal Solid Waste to Franchisee's Facility will be rendered infeasible; or

(4) An emergency involving County's Facility as defined in I.C. §31-1608 or an imminent or actual violation of laws, codes, rules or permits applicable to either the Franchisee's or County's Facility is or will be caused by the operation of Franchisee's Facility.

b) County must take all reasonable actions to correct or repair County's Facility so as to end any suspension of delivery as soon as is reasonably possible.

c) Except for emergency situations or unplanned circumstances that reduce amounts of deliverable Municipal Solid Waste (as to which no prior notice is required), County must provide at least three (3) days notice to Franchisee prior to any such suspension.

d) Franchisee must promptly notify County if Franchisee's Facility shuts down unintentionally, and Franchisee must give County at least three (3) days notice if the Franchisee's Facility is to be taken out of operation for repairs or other reasons.

e) In the event of a shortfall or an unscheduled or emergency interruption of Municipal Solid Waste delivery not arising from causes related to §III.A.4(a)(1) above, and in order for Franchisee to mitigate the impact of such on Franchisee, Franchisee may procure from an alternative source outside of the boundaries of Ada County, Municipal Solid

Waste in an amount sufficient to make up the deficit in Municipal Solid Waste being delivered from Ada County, which may be delivered to Franchisee's Facility during such an interruption. County will not charge Franchisee or the provider of any alternative Municipal Solid Waste a tipping fee, access fee or disposal fee associated with entering the County's Facility to deliver such to Franchisee's Facility. ~~Franchisee may charge such fees to the source of alternative Municipal Solid Waste as it deems appropriate until County has corrected the problem causing the interruption or is otherwise able to make up the deficit.~~ Any ash generated from alternative Municipal Solid Waste may be disposed of in accordance with Section III.A.2. herein.

f) The County may only suspend delivery of Municipal Solid Waste in accordance with Section 4(a)(1) above, after completing the following:

(1) Provide Franchisee with notice of its intent to suspend deliveries of Municipal Solid Waste within ten (10) days prior to suspension. Such notice shall provide supporting detail of its determination under Section 4(a)(1) above; identify with specificity the aspects and/or operational activities of Franchisee's Facility that is causing the demonstrable adverse impact on the operation of the County's Facility; and, shall provide proposed corrective action to be implemented by Franchisee necessary to remediate the identified cause(s) noted above; and

(2) If Franchisee cannot complete the corrective action with reasonable effort in ten (10) days after delivery of notice under Section 4(f)(1) above, County may not suspend delivery of Municipal Solid Waste if Franchisee:

(a) Begins corrective action of the causes identified above within a reasonable time after receipt of notice under Section 4(a)(1) above;

(b) Gives County a Correction Schedule within a reasonable time after receipt of notice under Section 4(a)(1) together with evidence reasonably satisfactory to the County that Franchisee has the capability, all necessary labor, supervision, equipment and materials to complete the correction as scheduled; and

(c) Completes the correction as scheduled.

B. On-Site Operations

1. Franchisee agrees to operate and maintain Franchisee's Facility during the Term of this Agreement in accordance with its established operation protocol and procedures.
2. Franchisee will provide sufficient personnel, equipment, and utilities for the operation of Franchisee's Facility.
3. Franchisee shall not be required to receive, handle, transport or dispose of any Unacceptable Waste.
4. The County and Franchisee each reserve the right to inspect any and all Municipal Solid Waste or other material delivered to Franchisee's Facility for proposed deposit and may reject any Unacceptable Waste.
5. All roads within the County's Facility will be maintained by the County or its designated agent so as to provide convenient access to and continued operation of Franchisee's Facility, as well as to accommodate emergency vehicles.
6. Equipment necessary for operation of Franchisee's Facility shall be purchased by Franchisee.
7. Each Party shall be solely responsible for the costs of operation, maintenance, repair, taxes upon, and insuring of its respective facilities, and solely liable for any damages or claims caused by the presence of Municipal Solid Waste on or within its respective properties or facilities.
8. Franchisee and the County shall use their best efforts to promptly obtain a power purchase agreement and a generator interconnection agreement with Idaho Power Corporation and shall sell power produced by Franchisee's Facility to Idaho Power Corporation pursuant to the power purchase agreement during the period of this Agreement. It shall be a condition precedent to continuation of this Agreement that Franchisee have an executed power purchase agreement and a generator interconnection agreement within 6 months of the effective date of this Agreement.

C. Compliance with Regulations and Laws.

1. At all times during the term of this Agreement, Franchisee shall operate Franchisee's Facility in material compliance with all applicable licenses, permits and approvals, in accordance with Good Engineering Practice and all laws, regulations, rules and orders, including, without limitation, the permits issued for Franchisee's Facility.
2. Without limiting the generality of the foregoing, Franchisee shall remain in compliance with all laws, ordinances, statutes, permit conditions, rules, and

regulations related to wages, hours, fair employment practices, anti-discrimination, safety and working conditions and environmental protection.

3. Franchisee shall, at its sole cost and expense, operate and maintain Franchisee's Facility in a manner to ensure compliance with all applicable requirements of federal, state and local law, including, but not limited to, noise regulations, Idaho State Department of Environmental Quality rules and regulations, Central District Health Department rules and regulations, and the Federal Clean Air Act.
4. Franchisee shall, at its sole cost and expense, make all necessary filings and diligently seek to obtain all Governmental Authorizations necessary to provide for and continue the sale and delivery of Municipal Solid Waste to the Delivery Point and to enable Franchisee to continue to operate Franchisee's Facility. The parties shall cooperate with each other in connection with such filings and shall keep each other advised regarding their progress toward obtaining the necessary authorizations. Such filings shall include, but not be limited to, air quality permits, construction permits, and land use permits.
5. Franchisee shall take all actions necessary to ensure that its installation is in full compliance with the County's Facility's environmental permits and permit requirements, including obtaining a new permit(s) or providing all information required to get County's current permit(s) modified, if necessary, at Franchisee's sole expense.

IV.

PURCHASE AND SALE

A. Purchase and Sale.

1. On and after the Commercial Operations Date, subject to the terms and conditions of this Franchise Agreement, County shall sell to Franchisee and deliver to the Delivery Point, and Franchisee shall purchase and take at the Delivery Point Municipal Solid Waste equal to or exceeding the Weekly Aggregate. ~~During the Initial Term, Franchisee shall not charge County any charge, fee, payment or other cost for accepting, burning and dispersing of Municipal Solid Waste.~~ Furthermore and during the Initial Term, County will not charge Franchisee any charge, fee, payment or other cost for delivering Municipal Solid Waste to Franchisee's Facility. After the Initial Term, the Parties will negotiate in good faith to establish certain fees to be paid by County to Franchisee for accepting, burning and dispersing of Municipal Solid Waste at Franchisee's Facility. Additionally, if the Parties agree to pay the fees to Franchisee as contemplated in the preceding sentence hereto, the Parties will also negotiate the payment of a "host fee" to be paid to County by Franchisee for access through County's Facility, use of County's scales, and

for use of County's roads within County's Facility. Any future fees will be subject to the County duly budgeting and appropriating funds therefore from revenues legally available to it for the ensuing and applicable fiscal years in which fees will be paid to Franchisee.

2. County, in its sole discretion, may sell any Excess Waste to others or may use such Excess Waste for its own purposes. Franchisee shall have a first right of refusal to purchase such Excess Waste on terms equivalent to the terms received by the County from a bona fide offer provided, however, Franchisee must exercise its right of refusal within 30 days of notice from County that it has received a bona fide offer to purchase Excess Waste and that Excess Waste is available for purchase.
 3. Except for any and all fees and/or charges contemplated by this Agreement, the County covenants and agrees not to levy or impose any other form of tax, fee, surcharge, host fee or other charge upon Franchisee or Franchisee's Facility for the disposal, handling or processing of Municipal Solid Waste at Franchisee's Facility during the term of the Lease with the exception of taxes and fees imposed by law.
- B. Title to Waste. County warrants that it has good and marketable title to, and the rights to sell, all Municipal Solid Waste to be delivered hereunder, free and clear of all liens, encumbrances and claims whatsoever. Ownership, title, control, liability and risk of loss with regard to County's Municipal Solid Waste shall pass from County to Franchisee at the Delivery Point.
- C. Delivery Conditions. In no event shall County be obligated to sell and deliver an amount of County's Municipal Solid Waste in excess of the amount of Municipal Solid Waste actually received at County's Facility. County shall not be obligated to sell Excess Waste to Franchisee except as described herein.
- D. "AS-IS" Condition: No Warranties. With the exception of Unacceptable Waste, all Municipal Solid Waste shall be taken by Franchisee in an "as is" condition. Franchisee is familiar with the contents of Municipal Solid Waste, and understands that its chemical and BTU content will vary from time to time, depending on the contents of the Municipal Solid Waste. All warranties of merchantability and fitness for a particular purpose and all other warranties, express or implied, are excluded from this transaction and do not apply to the Municipal Solid Waste sold hereunder.
- E. Tax Credits.
1. Certain Federal and State Tax Credits (collectively "Tax Credits") are currently available to an entity that owns operates and sells electricity from an electrical facility that uses Municipal Solid Waste as fuel. Franchisee will take all commercially reasonable actions to monetize or use those various Tax Credits if Franchisee's Facility qualifies.

2. To the extent other Tax Credits associated with use of Municipal Solid Waste are available or become available during the Franchise Agreement period, any such credits realized from this project will be the property of the County. Furthermore, any sale or transfer of the credits assigned to the County as part of this Franchise Agreement must first be authorized and approved by the Board of Ada County Commissioners.
3. Franchisee will make full disclosure to County concerning the amount and receipt of any value realized or income derived or potentially to be derived by Franchisee from tax credits or green tags (Renewable Energy Credits or RECs) as those benefits or that information is/are obtained and in all events no later than 30 days after such information, value or benefit is received.

V.

TERM

- A. Term. The term of this Franchise Agreement shall be the Initial Term and any Renewal Terms unless terminated as provided elsewhere in this Franchise Agreement.
- B. Renewal Terms. The parties may renew this Franchise Agreement for four renewal terms upon a mutually executed writing.
- C. Early Termination. Franchisee and County may terminate this Franchise Agreement early by a mutually executed writing.

VI.

REPRESENTATIONS AND WARRANTIES OF BOTH PARTIES

Each party warrants and represents to the other that:

- A. Standing. It is duly organized, validly existing and in good standing under the laws of the state in which it is formed and has all requisite power and authority to own its property and assets and execute and deliver this Franchise Agreement and perform its obligations hereunder.
- B. Authority. The execution, delivery and performance of this Franchise Agreement have been duly authorized by, or are in accordance with, its organizational instruments; this Franchise Agreement has been duly executed and delivered for the respective party by the signatories so authorized; and this Franchise Agreement constitutes its legal, valid and binding obligation, enforceable against it in accordance with the terms hereof subject to the bankruptcy, insolvency, fraudulent conveyance, transfer, reorganization and similar laws relating to or affecting the parties rights generally, and general principles of equity.

- C. No Consents. No approval, authorization, order or consent of or declaration, registration or filing with any governmental authority is required for the valid execution, delivery and performance under this Franchise Agreement by such party except as have been duly obtained or made.
- D. No Conflict. The execution, delivery and performance of this Franchise Agreement will not
1. conflict with or violate any provision of such party's corporate charter, articles, by-laws, partnership or limited liability company agreement or other organizational documents;
 2. conflict with, violate or result in a breach of any constitution, law, judgment, regulation or order of any governmental authority applicable to such party; or
 3. conflict with, violate or result in a breach of or constitute a default under, any agreement, Franchise Agreement or instrument to which it is a party or by which it or its properties may be bound or affected, or create or cause the imposition of any mortgage, pledge, lien, security interest or other encumbrance under any term or condition of any mortgage, indenture or other agreement or instrument as to which such party or any of its properties are bound or affected.
- E. Litigation. There is no action, suit or proceeding, at law or in equity, or official investigation before or by any court or governmental authority, pending or to the best of such party's knowledge, threatened against it, wherein an anticipated decision, ruling or finding would materially adversely affect the performance of its obligations hereunder or the performance of its obligations under the transactions contemplated hereby or adversely materially affect the validity or enforceability of this Franchise Agreement. There is no outstanding order, writ, injunction, decree, judgment or award by any court, arbitration panel or other Governmental Entity against or affecting it, its business, operations, or properties, or that may adversely materially affect the performance of its obligations hereunder.

VII.

ASSIGNMENT

- A. Assignment of Franchise Agreement. Neither party may transfer or assign this Franchise Agreement to any Person without the prior written consent of the other.
- B. Assignment by Franchisee. Notwithstanding Section VIII.A., Franchisee may assign all or substantially all of its interests hereunder to a Person only if (i) the assignee assumes all of Franchisee's obligations hereunder in a writing addressed to County, and (ii) County is reasonably satisfied that such assignee meets the financial and regulatory requirements necessary to undertake assumption of Franchisee's obligations hereunder. Upon County's written approval of the assignment, from the

date of such assignment and assumption, Franchisee shall be released in full from all such obligations.

- C. Successors and Assigns. This Franchise Agreement shall inure to the benefit of and shall be binding upon Franchisee and County and their authorized successors and assigns. Any transfer of any right, title or interest in County's Facilities to a third party must require that third party to be bound to this Franchise Agreement according to its terms.

VIII.

INDEMNIFICATION

- A. Indemnification by County. With respect to claims which do not relate to pollution, contamination or release of chemicals, and which arise from the County's ownership and/or operation of the Site and County's Facility, County shall indemnify, defend and hold harmless Franchisee Indemnitees against any and all Losses resulting from or arising out of:

1. Any breach of any representation or warranty made by County in this Franchise Agreement or any certificate or document furnished pursuant hereto by County;
2. Any breach or non-fulfillment of any covenant or agreement made by County in this Franchise Agreement; or
3. Personal injury to or death of any person caused by the negligence, gross negligence, or misconduct of County, any of its Affiliates, or any of their employees, agents or contractors.

Notwithstanding the foregoing, no Franchisee Indemnitee shall be entitled to indemnity hereunder for any Losses to the extent caused by any negligent act or omission or misconduct of any Franchisee Indemnitee, or any breach of this Franchise Agreement by Franchisee.

- B. Indemnification by Franchisee. With respect to claims which arise from Franchisee's ownership and/or operation of Franchisee's Facility, including hazardous waste, Franchisee shall indemnify, defend and hold harmless County Indemnitees against any and all Losses resulting from or arising out of:

1. Any breach of any representation or warranty made by Franchisee in this Franchise Agreement or any certificate or documents furnished pursuant herein to Franchisee;
2. Any breach or non-fulfillment of any conveyance or agreement made by Franchisee in this Franchise Agreement; or

3. Personal injury to or death of any person caused by the negligence, gross negligence, or misconduct of Franchisee, any of its subcontractors, affiliates, or any of their employees, agents or contractors.
4. Franchisee agrees to indemnify and hold harmless the County from and against any and all Losses, whether foreseeable or unforeseeable, directly or indirectly arising out of, in respect to, or in connection with (x) the transportation to or from or the presence, use, generation, storage, release, threatened release or disposal of Hazardous Material by any Party on, under, or on the Premises or in Franchisee's Facility after Franchisee takes possession of the Premises and completes construction of the Franchisee's Facility.

Notwithstanding the foregoing, no County Indemnitee shall be entitled to indemnity hereunder for any Losses to the extent caused by any negligent act or omission or misconduct of any County Indemnitee, or any breach of this Franchise Agreement by County.

- C. Release from Indemnity. County's compliance with applicable rules, regulations and laws applicable to municipal solid waste facilities which interferes with or causes damages to Franchisee is agreed to be a non-compensable event to Franchisee and Franchisee hereby waives, forgives and releases County from any loss in whatever form which might be occasioned thereby.
- D. Indemnification by Franchisee's Signatory. Franchisee's Signatory shall indemnify, defend and hold harmless County Indemnitees against any and all Losses resulting from or arising out of any breach of any representation or warranty made by Franchisee in this Franchise Agreement or in any certificate or documents furnished to County pursuant to this Franchise Agreement.
- E. Notice of Claims. If an Indemnified Party believes that it has suffered or incurred or will suffer or incur any Losses for which it is entitled to indemnification under this Article VIII, such Indemnified party shall notify the Indemnifying Party with reasonable promptness and particularity in light of the circumstances then existing. The failure of any Indemnified Party to give any notice required by this Section shall not affect any of such party's rights under this Article VIII, except to the extent that such failure is prejudicial to the rights of the Indemnified Party or to the ability of the Indemnifying Party to defend.
- F. Third Party Claims.
 1. If an Indemnified Party gives notice to the Indemnifying Party of a claim or other proceeding by a third party under Article VIII.. hereof, the Indemnifying Party will be entitled to assume the defense of such claim or proceeding with counsel reasonably satisfactory to the Indemnified Party, unless (i) the Indemnifying Party is also a party to such claim or proceeding and the

Indemnified Party determines in good faith that joint representation would be inappropriate, or (ii) the Indemnifying Party fails to provide reasonable assurance to the Indemnified Party of its financial capacity to defend such claim or proceeding and provide indemnification with respect to such claim or proceeding.

2. After notice from the Indemnifying Party to the Indemnified Party of its election to assume the defense of such claim or proceeding, the Indemnifying Party will not, as long as it diligently conducts such defense, be liable to the Indemnified Party for any reasonable fees of other counsel or any other expenses with respect to the defense of such claim or proceeding, in each case subsequently incurred by the Indemnified Party in connection with the defense of such claim or proceeding, other than reasonable costs of investigation.
3. If the Indemnifying Party assumes the defense of a claim or proceeding: (i) no compromise or settlement of such claims may be effected by the Indemnifying Party without the Indemnified Party's consent, unless the sole relief provided is monetary damages that are paid in full by the Indemnifying Party; and (ii) the Indemnified Party will have no liability with respect to any compromise or settlement of such claims effected without its consent.
4. If notice is given to an Indemnifying Party of the commencement of any claim or proceeding and the Indemnifying Party does not, within ten (10) days after the Indemnified Party notice is given, give notice to the Indemnified Party of its election to assume the defense of such claim or proceeding, the Indemnifying Party will be bound by any determination made in such claim or proceeding or any compromise or settlement effected by the Indemnified Party; provided that the Indemnified Party shall give the Indemnifying Party advance notice of any proposed compromise or settlement.

G. Indemnification Rights Not Exclusive. The rights to indemnification set forth in this Article VIII are not intended to be exclusive of any other right or remedy otherwise available. All rights hereunder shall be cumulative and in addition to all other rights and remedies.

H. Survival. Any obligation of indemnity owed by a party hereto shall survive the termination of this Franchise Agreement.

I. Insurance. Franchisee shall obtain and provide proof of insurance as described in Exhibit F.

IX.

EVENTS OF DEFAULT AND REMEDIES

A. Event of Default Defined. Any one or more of the following shall be an "Event of Default" under this Franchise Agreement:

1. Failure by County or Franchisee to pay any amount due on the date specified that such payment is due and payable which failure shall have continued for a period of thirty (30) business days after written notice of such failure shall have been given to the defaulting party by the non-defaulting party.
 2. Failure by County or Franchisee to observe or perform to a material extent any covenant, condition, or agreement on their part to be observed or performed hereunder, other than a payment default by County or Franchisee as described in the foregoing subsection IX.A.1, for a period of thirty (30) days after the non-defaulting party has given written notice specifying such failure, requesting that it be remedied, and stating that it is a notice of default; provided, however, that if the default is such that it cannot be corrected within the applicable period, it shall not constitute an event of default until ninety (90) days after said default if corrective action is instituted by the party in default within ten (10) days after the non-defaulting party's notice and diligently pursued until the default is corrected. The foregoing notwithstanding, the defaulting party shall remain liable to the other party for any damages incurred during the period beginning on the date on which the failure of performance occurred through the date on which performance is cured.
 3. The institution by County or Franchisee of proceedings to be adjudicated bankrupt or insolvent, or the consent by it to the institution of bankruptcy or insolvency proceedings against it, or the filing of a petition or answer or consent seeking reorganization or relief under the federal Bankruptcy Code or any other applicable federal or state law, or the consent by it to the filing of such petition or to the appointment of a receiver, liquidator, assignee, trustee, or similar official or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of action by any of them in furtherance of any such action. The foregoing notwithstanding, if any such proceeding is dismissed within ninety (90) days, such proceedings shall not create a default under this Franchise Agreement.
 4. Any material breach of any representation made in this Franchise Agreement by a party.
- B. Force Majeure. If by reason of Force Majeure either party is unable in whole or in material part to carry out the obligations on its part contained in this Franchise Agreement such that the default provisions of Section IX.A apply, (other than County's and Franchisee's obligations referred to in subsection IX.A.1), such party shall not be deemed in default during the ninety (90) days of the continuance of such inability, provided that

1. The party unable to carry out its obligations, within five (5) business days after the occurrence of the event of Force Majeure, gives the other party written notice describing the particulars of such occurrence;
 2. The suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure and shall not in any event be longer than a ninety (90) calendar day period;
 3. No obligations of the party unable to carry out its obligations which arose prior to the occurrence causing the suspension of performance shall be excused as a result of such occurrence; and
 4. The non-performing party shall use its best efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations.
- C. Termination Remedies on Default. In addition to any other right or remedy of the parties, Franchisee and County shall each have the right, by notice to the other party in accordance with the provisions herein, to terminate this Franchise Agreement if the other party commits an Event of Default.
- D. No Remedy Exclusive. No remedy provided herein is exclusive of any other available remedy or remedies under law or in equity.
- E. Attorneys' Fees and Expenses. A defaulting party hereunder shall reimburse the other party for its reasonable expenses incurred for the collection of amounts payable under this Franchise Agreement or the enforcement of performance or observance of any obligation or agreement on the part of the party in default, including, but not limited to, reasonable attorneys' fees.
- F. Waiver. To the extent permitted by law, no delay or omission to exercise any right or remedy of a party hereto shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be expedient. Any actual waiver shall be in writing and signed by the party against whom it is to operate. In order to entitle either party to exercise any remedy hereunder, it shall not be necessary to give any notice other than as may be required in this Franchise Agreement. If any covenant contained in this Franchise Agreement should be breached by either party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach under this Franchise Agreement.
- G. Limitation on Remedies. No provision hereof shall be construed to impose any personal or pecuniary liability upon any officer or employee of Franchisee or County. No party shall be liable for any indirect, special, consequential, exemplary or punitive damages by reason of a claim brought on the basis of this Franchise Agreement. Franchisee hereby irrevocably waives, for itself and any entity or person claiming by or through Franchisee inclusive of any Franchisee Indemnitee, any claim for loss,

damage or compensation based on any allegation of damage to any equipment, component or system of Franchisee or any Franchisee Indemnitee caused by use of Municipal Solid Waste within such equipment, component or system unless such loss or damage is caused by County's misconduct or negligence.

X.

MISCELLANEOUS

A. Notices. All notices, certificates, consents or other communications required or permitted to be given or made under this Franchise Agreement shall be in writing and shall be deemed properly served (i) if by hand delivery, telecopy or other facsimile transmission, on the day and at the time on which delivered to the intended recipient at the address or telecopier number set forth in this Franchise Agreement; (ii) if by mail, on the third business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this Franchise Agreement; or (iii) if by Federal Express or other reputable express mail service for overnight delivery, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this Franchise Agreement. All notices required or permitted to be served upon either party hereunder will be directed to:

If to Franchisee:

Dynamis Energy, LLC
c/o C. Lloyd Mahaffey
776 E. Riverside Drive, Suite 150
Eagle, ID 83616

If to County:

Board of Ada County Commissioners
200 W. Front Street
Boise, ID 83702

With a copy to:

Ada County Solid Waste
200 West Front Street
Boise, ID 83702

Franchisee and County may, by notice given hereunder, designate any further or different addresses or telecopy numbers to which notices, certificates, or other communications shall be sent.

B. Non-Dedication of Facilities. Neither party dedicates any part of any facility owned or operated by it for the production of electricity to the public generally and

CLEAN ENERGY
FROM THE WORLD'S WASTE



HOME

COMPANY

TECHNOLOGY

ENVIRONMENTAL

WASTE

CONTACT

3.0 State of the Art Technology

Dynamis Energy's 3.0 waste-to-energy technology for converting waste to energy represents a more environmentally sound option that is far superior to earlier 2.0 waste removal and energy creation processes. Our patented processes and trade secrets reduce reliance on fossil fuels, decrease harmful emissions, and provide numerous immeasurable long-term benefits, creating a new path toward a sustainable and cleaner world.

Let us assist you

Contact Us

 Did you know?

DIFFERENTIATION

- No pre-treatment of waste is required
- No expensive emission handling systems are required to meet regulations
- Modular design, allows plant to scale as community grows
- Recclaims recyclable materials
- Residual ash is recycled and used in concrete or road aggregate
- Technology allows tactical deployment of modular units
- Wide spectrum of waste streams can be used
- Reliable low cost system with few moving parts
- Reduce reliance on fossil fuels for energy generation

According to the United States Environmental Protection Agency, U.S. residents, businesses, and institutions produce approximately 4.62 pounds of waste per person, per day. That is in excess of 240 million tons of MSW per year, of which the highest percentage of that amount is disposed of in our landfill's.



Our Process

Our technologies utilize a controlled (starved) air gasification process, which thermally converts waste products into a combustible gas. The unique modular design allows for application flexibility, simple installation, and ease of operation. With capacities from 5 to 2000 tons per 12-15 hours of waste processing, our systems are ideal for small municipalities and industries, as well as large-scale waste disposal applications. By adding thermal recovery equipment, we are able to produce heat, power and power recovery of up to 50 MW (enough energy to serve a small rural community) may be possible for the larger systems.

The Dynamis 3.0 technology actively mitigates many potential emissions problems such as particulates, NOx, many toxic volatile metals and dioxins/furans. However, our systems can incorporate either dry or wet scrubbers or other emission abatement systems to neutralize acid gases and absorb other dangerous by-products, such as mercury, depending on the waste type destroyed. The combustion of the primary gases in the secondary combustion system is usually sufficient to eliminate toxic gases at levels exceeding U.S. EPA limits.

Because the Dynamis 3.0 system requires no pre-treatment of waste and has few moving parts, it has many advantages over other thermal treatment systems. Its durable, simple design is easy to install and operate. Once the system is loaded it requires minimal operator attention and thus has lower labor costs. The modular design allows for flexibility in application to meet capacities from 5 to over 2000 tons per 12-15 hours. In addition, because of the technology employed, very little fuel is required to begin and sustain combustion.

The foundation of the Dynamis design is simple, yet utilizes state-of-the-art technology allowing for a robust and efficient system which is both operational and maintenance friendly. At the same time, the system is highly resourceful for energy production and the environment.

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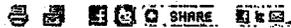
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Two plants in Idaho could turn 250 tons of trash a day into power for 10,000 homes

BY CYNTHIA SEWELL - cmsewell@idahostatesman.com
 Copyright: © 2011 Idaho Statesman
 Published: 02/15/11

60 Comments



Landfills across the country are filling up and the march is on to increase renewable energy sources. Ada County buries about 2,000 tons of trash every day at its Foothills landfill — trash that Eagle businessman Lloyd Mahaffey sees as fuel just waiting to become clean electricity.

"Burying our waste is the second-dumbest thing humans do," said Mahaffey, CEO of Dynamis Energy, which already has built a plant to turn trash into power in Alaska.

(The No. 1 dumbest thing, he said, is always up for debate.)

Burying trash leaves a mountainous mess for future generations and the decomposing trash puts harmful methane gas into the air.

"Every ton of waste stream we process is one ton the county doesn't have to bury," Mahaffey said.

Now Dynamis hopes its first two plants in the Lower 48 with its new technology will be built this year in Ada County and in Clark County in eastern Idaho.

NOT AN OLD-SCHOOL INCINERATOR

Dynamis Energy says its process can reduce tons of trash in eight hours into a small pile of ash and a gas that can be converted into energy.

"People say they don't want an incinerator in their back yard. That's good, because that's not what we make," said Mahaffey. "This technology is gasification, not incineration."

Instead of burning the waste, he says, it is heated in a chamber without oxygen. That breaks down the material into elements that form a gas, which can be burned to spin turbines and create energy.

About 96 percent of the waste is destroyed by the process.

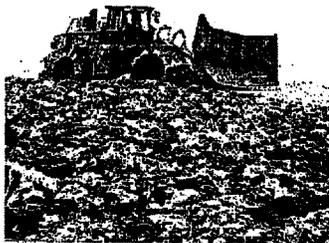
"We will have very little residual material going into the landfill, if any," said Dynamis vice president Pete Johnson.

They say their technology leapfrogs previous attempts to turn trash into power. Even advanced incinerators produce emissions that must be "scrubbed" by an expensive process.

Thermal gasification differs because the waste is super-heated, not burned.

"It is kind of like Dutch-oven cooking," said Johnson.

BECAUSE IT'S TIME



Darin Oswald / Idaho Statesman
 A compactor shifts load after load of trash at the Ada County Landfill on Monday. A new technology could soon divert more than a tenth of the trash coming to the landfill every day and use it to create electricity.

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RELATED DOCUMENTS

See how the waste-to-energy gasification plant would work

ELSEWHERE

Learn more about Dynamis Energy

ADDITIONAL INFORMATION

HOW IT WOULD WORK WITH THE COUNTY

Ada County last June agreed to lease Dynamis Hidden Hollow landfill property for \$1 a year for 20 years. In exchange, Dynamis will take 250 tons of trash a day — about 15 percent of the daily haul. Dynamis will build, own and operate the 54,400-square-foot plant. The landfill benefits because it does not have to bury and manage the waste, cutting down on the need for future — and costly — expansions.

Ada County Commissioner Sharon Ullman said the project, "will save us big dollars down the road by not having to bury our waste." The county recently expanded the landfill at a cost of \$18 million.

The county put \$2 million toward the Dynamis project, which it will get back within the next six months, Ullman said. "We paid for development of the plans. Dynamis will purchase the plans back from us. This arrangement qualifies for stimulus money," Ullman said.

Engineering and design are complete on the Ada County plant. Now Dynamis must get its environmental permits. Because the technology is new, Dynamis is working with the

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News > Business

Eagle company to build waste-to-energy plant in Italy

By Cynthia Sewell - cmsewell@idahostatesman.com
 Published: 06/09/11

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Eagle-based Dynamis Energy will start construction this summer in Lombardy, Italy, to build a waste-to-energy plant that will gasify municipal solid waste to generate steam and electricity. "This will be our first plant in Europe, and will serve as a springboard for more plants in Italy and the European Union," C. Lloyd Mahaffey, chairman and CEO of Dynamis Energy, said in a press release. Dynamis is working to secure permits from Idaho Department of Environmental Quality to build similar waste-to-energy plants in Ada and Clark counties.

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SPECIAL MEETING OF THE NAMP A DEVELOPMENT CORPORATION

Wednesday April 13, 2011

City of Nampa

411 3rd Street South

Chairman Dan Nogales called the meeting to order at 1:00 pm. The roll was taken with Martin Thorne, David Ferdinand, Stephen Kren, Dan Nogales. Curtis Homer and Nick Treinen present. Pam White was absent.

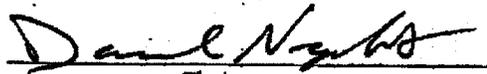
McKinstry Contract for Economic Development Project

Beth Ineck took a brief moment to follow up on a couple of items from the previous meeting. Beth Ineck had board refer to letter regarding house bill 95aa. Some discussion followed. Beth Ineck updated the board that on this contract from McKinstry clarification was made that the placement of the site be within the Urban Renewal district, and that board could refer to the McKinstry website for information regarding their background and history. Beth Ineck reviewed with the board that the other concern from the board was the feasibility of the project and that David Naccarato from McKinstry would be covering this with two basic sample rough proformas using the information on what the City of Nampa had available. Beth Ineck informed the board that representatives from both McKinstry and Dynamis were present to discuss any questions or concerns for this project. David Naccarato from McKinstry took some time to review what McKinstry company does and their involvement with the City. David Naccarato talked about their relationship with Dynamis Energy and the plans for the project which was presented at the previous meeting. Discussion followed. Questions from the NDC board members were addressed by David Naccarato from McKinstry and or Lloyd Mahaffey CEO and chairman from Dynamis. Chairman Dan Nogales reminded the board that at the prior meeting there was question as to whether or not Commissioner David Ferdinand should vote on this project or not. Chairman Dan Nogales opened this up for the board to decide if David Ferdinand should recue himself from the vote. No motion was made and David Ferdinand was allowed to vote on the project. Some more discussion followed in regard to the project. Martin Thorne made the motion to engage in a contract with McKinstry industry for the economic development project so that due diligence can be done toward the project to get to the next step, seconded by Curtis Homer. A roll call vote Treinen, Kren, and Ferdinand voted No, Homer, Nogales and Thorne voted Yes. Chairman Dan Nogales stated that the vote was tied and in that event the vote failed.

Curtis Homer made motion to adjourned meeting, seconded by Stephen Kren. Vote taken motion carried.

The meeting was adjourned at 2:05pm.

Approved this 4 day of May, 2011.


Chairman

ATTEST:


Secretary

SPECIAL COUNCIL

May 10, 2011

The Mayor called the meeting to order at 8:00 a.m. at the Fire Training Center.

The roll of the Council was taken with Councilmembers Homer, Kren, White and Thorne.

Also present were department heads and other staff members.

City Treasurer Deborah Spille addressed the Council on the phone situation at Central Service. She explained that there has been an increased volume of calls due to the irrigation bills and a new policy that was implemented on not turning off domestic water from October thru February. The phone system at Central Services does not have the capacity to handle all of the calls that are coming in.

Building Safety and Facilities Director Dennis Davis introduced David Naccarato with McKinstry Essention Inc. Mr. Naccarato introduced Lloyd Mahaffey who is the Chairman and CEO of Dynamis Energy.

Mr. Mahaffey gave a presentation on **Turning the World's Waste into Renewable Energy** explaining that there is a growing interest in integrated waste management and mandated renewable energy standards and a concern with global warming and reducing the carbon footprint. The Dynamis Technology is proven and improved technology and it uses thermal oxidation system (gasification), not incineration and is high efficiency, high power output and has been field tested and proven. Mr. Mahaffey went on to explain how the process works is gasification technology at high temperatures with substantial energy production from waste disposal to clean renewable energy.

Finance Director Vikki Chandler presented two ways that the City may fund the requested dollars for the Waste to Energy Feasibility Analysis.

Economic Director Cliff Long presented a staff report explaining that in his five years at the City of Nampa, there have been few prospects with the potential to bring jobs and investments to our community as the waste-to-energy project you are currently considering. When constructed, this project will change the course of Nampa's economy and shape our future for years to come. He expressed his support of the feasibility analysis and to request assistance in funding its implementation. The opportunities for the City's workforce, the impacts to local businesses and the potential revenue stream to the City are a few of the positive attributes this project would provide. In addition, the construction of the facility would provide Nampa with an economic development advantage over other communities in locally produced "green" electricity and process steam to fuel new and existing industries. This "energy independence" would help the City be competitive for future manufacturing, food processing and high-tech opportunities. The first step in achieving this vision is to determine its feasibility. By funding a real world "reality check", the City can find out if Nampa has the necessary components to make this project happen. If the results come back positive, the City has the basis to partner with private sector developers to build and operate a successful facility in our community. Without this validation, however, private sector partners will invest their capital elsewhere—in communities that have

Special Council
May 10, 2011

done their homework to minimize risk. This analysis is an investment in our community. It is not guaranteed, but it represents a small expenditure with the potential for huge rewards to our citizens. He hoped the City would consider the issue carefully and support funding for this analysis.

MOVED by Homer and **SECONDED** to authorize the Mayor to sign a Project Development Agreement with McKinstry Essention Inc./Dynaqmis Energy in the amount of \$100,000.00 for the Waste to Energy Feasibility Analysis as requested. The Mayor asked all in favor say AYE with Councilmembers White, Thorne and Homer voting AYE – NAY Kren. The Mayor declared the

MOTION CARRIED

David Naccarato presented the McKinstry Energy Conservation & Facility Improvement Plan explaining that McKinstry was selected as ESCO Partner in March of 2010. They have performed an Investment Grade Energy Audit on three of the Cities major facilities the Idaho Center, Recreation Center and the Civic Center. The City is currently implementing energy savings and facility improvement measures with the balance of available ARRA funds. The key elements to success are technical, contractual, economic, financial, political and environmental. This is a Judicial Confirmation Project and with Judicial confirmation of the project it will provide the community with \$3m in energy savings and infrastructure improvements. This is the first part of a multi-phase capital and infrastructure improvement plan. The plan includes thermal storage, lighting, HVAC and controls, new event signs, new roofs and new boilers.

Vikki Chandler presented a summary of the capital improvement plan for all funds including the items from the McKinstry Plan. Ms. Chandler then went on to explain that perhaps the Council would consider a one percent increase in the electric franchise fee to have a revenue source to fund some of the capital maintenance plan.

It was the Council's decision to authorize the Finance Director to present a request to the City Attorney to change the Electric Franchise Ordinance by rewording the terminology on what the fees collected may be used for and to possibly leave the percentage taken blank and have that Ordinance presented to Council for consideration at a later date.

Ms. Chandler presented the Second Quarter Financial Reports for March 31, 2011. General Fund: Cash on hand remains fairly consistent at March 31 compared to previous years; our primary liability at March 31 is accrued payroll, which we have just started doing on a regular basis to give financial statements more accuracy; a decreasing fund balance of over a million dollars each year for the past two years is as budgeted. Today we have exactly 25% of budgeted expenditures in our fund balance as is our policy, for emergent use and cash flow purposes. If we had other capital funding, 15% or so would be reasonable. Without other capital funding, we require a total of 25% for emergent unbudgeted needs, which I usually capital items. The longer we are unable to budget for capital items, the more frequent and significant become the unbudgeted needs. \$3.8 million of the fund balance is on loan to Nampa Development Corporation (NDC) so our emergency fund is non-existent. We generally agree that we must not budget any further use of the fund balance for operations and we must find a revenue source for funding capital items. The last line of the General Fund indicates the status of revenues and expenditures at March 31 for the past three years. In 2009 the use of \$1.4 million of reserves is what forced us to implement layoffs and cutbacks. Today a number of \$127,717 in a \$40 million budget indicated how closely we are budgeting. Revenues are

Special Council
May 10, 2011

generally as budgeted including the State Revenue Sharing, which came in April therefore is not included here. No budget adjustment is necessary for revenues. Expenditures are very tight and emergent needs will likely require another budget amendment this summer. Fuel budget might be Ok. The recent flood actually helped us with computer replacements. The following Special Revenue Funds are those funds that get a significant part of their funding from fees. It is not required that they are self-supporting although they may be for operations, if not capital items. Street & Traffic: Revenues are shy due to timing and expenditures are under budget due to capital and operational projects that are seasonal. Library, Cemetery, Airport and Recreation Center: are doing well in all categories by trying to curtail expenditures to match revenues. Golf Courses have seasonal revenues, although this spring is down by \$80,000 from 2010. Civic Center is slightly over in operations usually matched by revenues. The Idaho Center will be significantly over budget this year due to fewer touring concerts, competition for fewer shows and less discretionary income from the local economy. They will use all of their fund balance this year. Enterprise Funds are required to be totally supported from fees including capital items. Water & Sewer have not expended capital and significant operational budgets. Sanitation will not have bad debt applied until year end. The only budget for Capital Funds is related to the 13% in Impact Fees CIP that is the city's responsibility for growth within the next decade. The total is \$1.8 million or \$180,000 per year for 10 years. Our self-funded insurance plans continue to meet the minimum requirements for fund balance and to meet the annual obligations with current revenues. This is a healthy situation for the City. Grant funds should reflect equal revenues and expenditures except for timing differences. HUD and the Neighborhood Stabilization Program remains very challenging for cash flow and continued funding. The cash flow is slightly better than reported last quarter and their team is working on documentation that should smooth the cash flow issue before the end of the next quarter. Of primary concerns is the postponement of funding for any capital items in the General and Special Revenue Funds. The longer we put off this funding the more common will be emergent needs. Within a short time this will become a cash flow problem. Overall budgets are tight and expenditures are very close to budgets.

Vikki Chandler presented the Cost Allocation plan stating that the General Fund pays for support services and that some transfers are made to the General Fund for services and that the full cost of services is unknown without a cost allocation plan. Examples were presented. Points of decision for enterprise funds were adopt fees to fund full cost of service or identify funding sources to add to revenues for full cost of service or adjust the support services provided. The decisions points on special Revenue Funds are identify full cost of service as in-kind revenue and expenses that fully offset one another and/or charge a % of support to transfer to General Fund through the budget process.

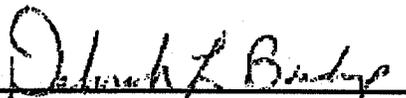
The Mayor adjourned the meeting at 11:45 a.m.

PASSED this 16th day of May, 2011.



MAYOR

ATTEST:



CITY CLERK

MEETING OF THE NAMPA DEVELOPMENT CORPORATION

Wednesday, October 12, 2011

City of Nampa

411 3rd Street South

Chairman Dan Nogales called the meeting to order at 3:09 pm. Roll was taken with:

COMMISSIONES PRESENT: Chair Dan Nogales, Vice-Chair Curtis Homer, Len Williams, Martin Thorne, Stephen Kren, David Ferdinand

COMMISSIONERS ABSENT: Pam White

AGENDA

Kren made a motion to add the appointment of the new secretary to the agenda, seconded by Thorne. Vote taken. Motion passed.

MINUTES

Chairman Dan Nogales called for a motion for the approval of the minutes. Curtis Homer made a motion to approve the minutes from September 7, 2011 and September 19, 2011, seconded by Len Williams. David Ferdinand abstained from voting on the September 19, 2011 minutes, as he was absent. Vote taken. Motion passed.

MCKINSTRY WASTE TO ENERGY REPORT

McKinstry reported on the Waste to Energy project. McKinstry has surpassed the \$100,000 allocated by the City for Phase 1 of the study, and McKinstry is absorbing any additional cost above \$100,000. McKinstry recommends that the City not move forward into Phase 2 of the project, due to the volume of Nampa's waste and current PURPA rates. McKinstry will continue to move forward with the study, at no additional cost.

PUBLIC SAFETY BUILDING REPORT

Ken Fisher presented updates on the Public Safety Building. Ken negotiated with LCA to ensure that LCA will extend its oversight of the project from December 5, 2011 to December 30, 2011 at no additional cost to NDC.

Chairman Nogales asked legal counsel to look over the warranties provided by the flooring manufacturer for the Public Safety Building, in reference to Change Order #84. Kren made a motion to approve Change Order #84, totaling \$27,000, seconded by Thorne. Roll call vote taken with all voting yes. Motion passed.

There will be a Public Safety Building tour for the Commissioners on November 9, 2011.

STREET RECONSTRUCTION UPDATE

Cliff Long updated the Commissioners on the potential road construction project at 8th Ave, 9th Ave, and 1st St. South, surrounding the Public Safety Building.

Cliff recommended the Commissioners not move forward with improvements or reconstructions until spring, as the savings are not as great as anticipated. Cliff Long will contact the appropriate parties to delay the project until spring.

FINANCIAL REPORT AND APPROVAL OF PAYABLES

Beth Ineck reported on the deposit and check details for NDC. Homer made a motion to approve the finance report and the payables as presented, seconded by Ferdinand. Motion passed.

INCENTIVE PROJECT

Beth Ineck presented an informal proposal from a small retail based project, valued at \$300,000, interested in the private investment Incentive provided by NDC.

The Commissioners re-iterated, as previously decided, not to extend financial incentives to single tenant retail projects under \$3,000,000.

Kren exited at 4:53 pm.

RFQ COMMITTEE UPDATE

Beth Ineck reported on the RFQ project and presented the current marketing brochure. Beth will have a more comprehensive document for the Commissioners at the November NDC meeting.

APPOINTMENT OF SECRETARY

Ferdinand made a motion to appoint All Schisler as Secretary to the NDC Board and to authorize her usage of the NDC credit card. Seconded by Thorne, Roll call vote was taken with all present voting yes. Motion passed.

LIBRARY REPORT

Barry Myers, Nampa Public Library Trustee, presented his monthly report.

LEGAL COUNSEL

Legal Counsel was present at the meeting, but had nothing to report.

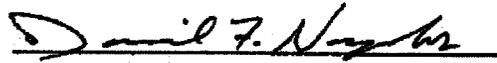
EXECUTIVE SESSION

At 5:01 pm Chairman Nogales called for a motion to move into Executive Session. Motion made by Thorne to move into Executive session pursuant to Idaho Code 67-2345 (1) (c) to discuss land acquisition, seconded by Homer. A roll call vote was taken with all members present voting yes. At 5:39 pm, Thorne moved to conclude the Executive Session during which discussion was held regarding Land Acquisition pursuant to Idaho Code 67-2345 (1) (c). No decisions were made or action taken, seconded by Ferdinand. Vote taken. Motion passed.

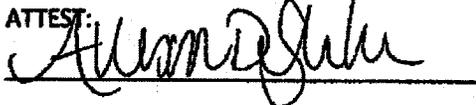
ADJOURNMENT

Motion was made by Williams to adjourn the meeting at 5:41 pm, second by Ferdinand. Motion passed.

Approved this 9 day of November, 2011.



Chairman

ATTEST:


Secretary

Nampa wise to look into waste power plant idea (take poll at right)

Posted: Thursday, May 12, 2011 12:00 am

Nampa has taken a smart first step toward what could ultimately bring in millions of dollars to the city, while at the same time turn garbage that would otherwise fill up landfill space into energy.

The City Council wisely voted 3-1 to spend \$100,000 on a feasibility study for a private plant that would turn city garbage into electricity. If the plan moves forward, it would cost the city's urban renewal agency an additional \$150,000.

The expenditures were of concern to Councilman Stephen Kren, who worried about spending that much money on something that could ultimately fall through.

Sure, the plan could fail to pan out. That's always possible. But anyone who starts a business will tell you that you have to be willing to take calculated risks once in a while — and you have to spend money to make money. And when you consider the good things such a facility could bring — including the revenue it would generate — and look at what's happening just down I-84, it's a wise investment.

Power generated by the plant would be sold to Idaho Power and would bring in an estimated \$1 million a year to Nampa. The operation would also generate about \$700,000 annually in property taxes to urban renewal, which could help pay for a new library. The plant would be built north of the Treasure Valley Marketplace.

Private company McKinstry would build the plant and it would use technology developed by Dynamis Energy of Eagle. A year ago, Dymanis signed an agreement with Ada County to convert that county's municipal solid

waste (household trash and tires) into electricity.

The company says its method of converting waste to energy does not involve burning it, so there wouldn't be stinky smoke billowing out everywhere. According to an article published in Boise State's student newspaper *The Arbiter*, Dynamis CEO Lloyd Mahaffey says the waste is heated in a chamber without oxygen and the material is broken into elements that form a gas, which can be converted into energy.

When you consider the potential benefits — millions of dollars coming in to the city, less waste piling up and less dependence on others for our energy — it's worth risking the \$100,000 to look into.



October 17, 2011

The Honorable Mayor Tom Dale
City of Nampa Idaho
Nampa City Hall
411 3rd Street South
Nampa, ID 83651

RE: Reduction on Phase 1 Municipal Solid Waste To Energy Feasibility Study

Dear Mayor Dale:

McKinstry remains committed to investigating the possibility for implementing a municipal solid waste to energy (MSWTE) facility that will provide sustainable energy and economic development for the City of Nampa and its participating partners.

Per our recent meeting, we have elected not to proceed to Phase 2 of this study, until such time that we can identify additional waste volumes that will make a larger MSWTE plant cost-effective under the recently revised PURPA power purchasing rates as set by Idaho PUC. This investigation into additional waste volumes is being pursued at our expense.

As you know the Phase 1 report, which is now complete, was to cost the City of Nampa \$100,000 upon completion. However, our technology partner, Dynamis Energy, has volunteered to absorb the costs (\$40,000) that they incurred for their portion of the work to develop and implement the Phase 1 Report. The beneficial result to the City is a decrease to a total of \$60,000. In addition, McKinstry has elected to postpone invoicing the City of Nampa for this amount until we have the opportunity to investigate other waste streams further.

Thank you for your support and commitment to this project. As the ESCO (Energy Service Company) partner to the City of Nampa, we affirm that Nampa is an example for other cities that are looking for innovative and sustainable solutions in this new economy – ones that focus on integrated community partnerships and public-private cooperation.

I look forward to many years of rewarding collaboration.

Best regards,

David C. Naccarato
Business Development Manager

Cc: Cliff Long, Director – Nampa Development Corporation
Lloyd Mahaffey, CEO – Dynamis Energy

Companies plan garbage-fueled power plants in Wyoming

- Story
- Discussion

Companies plan garbage-fueled power plants in Wyoming

By JEREMY FUGLEBERG Star-Tribune energy reporter trib.com | Posted: Wednesday, May 18, 2011 6:00 am | (23) Comments

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- Related: American Renewable Energy Associates - developer of waste-to-energy plants near Guernsey and Cheyenne
- Related: Dynamis Energy - developer of waste-to-energy plant in Riverton

Wyoming's garbage, usually something to be dumped and buried, will get a new life feeding small, modular power plants located near cities around the state, under plans from two companies.

Guernsey-based American Renewable Energy Associates plans to break ground within a couple of months for plants in Guernsey and Cheyenne that convert solid waste into electricity, according to company representatives. The company is eyeing sites near Gillette and on the Wind River Indian Reservation.

Meanwhile, Idaho-based Dynamis Energy is in talks for similar facilities in Riverton and Cokeville and plans to conduct a feasibility study for the Riverton facility in cooperation with the Fremont County Commission and the county's solid waste district.

Both companies plan to install relatively small, modular facilities that burn the waste and turn most of it into a gas. That gas fires boilers, whose steam drives turbines that produce electricity for sale.

The process is used in Europe and at sites in Florida, California and Oregon, but the facilities are

new to this part of the nation.

“Municipal waste is a great source of energy that we’re just throwing away,” said Rick Fawcett, who represents Dynamis Energy for its Wyoming projects.

The rush for garbage power is not just due to the desire to stop wasting waste. The push for new plants is largely due to an expiring tax break and an expected hike in the price of electricity generated by small producers, Fawcett said.

A sizable tax break offered through the federal economic stimulus package expires at the end of 2012, and waste-to-energy developers are expecting a 2014 hike in the rates power companies will pay for the electricity produced from small producers — a rate tied to the price of natural gas, he said.

So both producers are pushing forward with plans to break ground this year.

American Renewable Energy Associates spokeswoman Heather Foster said the company plans to have both its Guernsey and Cheyenne plants in operation before the end of 2012. Dynamis Energy expects to break ground before the end of the year on its Riverton facility.

Each of the American Renewable Energy Associates’ \$30 million plants will stand on 3.3 acres and will process up to 300 tons of garbage a day, enough to create 13.5 megawatts of electricity, said Foster.

To put that in perspective, the Dave Johnston coal-fired power plant near Glenrock is rated at just more than 800 megawatts.

The plants will each create 170 construction jobs and 50 full-time positions when put into operation. The Cheyenne plant is located in an “industrial part” of the city, and the Guernsey plant will be located 3.5 miles west of the city.

The town is working to build up a full range of housing options for construction workers and future employees of the plant, including reconditioned houses, portable homes, and higher-end dwellings for single families, said Bruce Heimbeck, community development coordinator for the Guernsey Economic and Tourism Development Corp.

“I think it fits in real well,” Heimbeck said of the plant. “It’s green energy, should be a low impact. It gives viability to the economic base and puts families in the schools. It’s stable, long-term and viable.”

The Dynamis facilities are slightly smaller, producing 7 to 10 megawatts of power from 125 to 250 tons of solid waste each day, Fawcett said.

The plants, which will be permitted through the air quality and solid and hazardous waste divisions of the Wyoming Department of Environmental Quality, produce few emissions and use

water produced from the waste gasification process, said Claudia Teeters, Wyoming projects administrator for American Renewable Energy Associates.

The facilities provide a way to use waste that would otherwise pile up in landfills, saving space and putting new electricity into the power grid from garbage, which naturally produces gas as it decomposes.

"Harvesting gas from it is just nature's way of taking that material and decomposing it into a gas," said Fawcett, with Dynamis Energy. "What we're just doing is accelerating that."

Along with the plant construction, American Renewable Energy Associates is developing an accredited curriculum for workers, to be taught through the University of Wyoming, Eastern Wyoming College and Laramie County Community College, Foster said.

The curriculum could be used to train workers for both the company's plants in Wyoming and future locations elsewhere, as well as similar facilities owned by other companies, she said.

In the meantime, the company is negotiating deals to get waste from surrounding communities and arranging power purchase agreements for the output from the plants.

"We've got a couple of buyers we're negotiating with right now," Foster said.

Reach Jeremy Fugleberg at 307-266-0623 or jeremy.fugleberg@trib.com. Read his blog at <http://trib.com/news/opinion/blogs/boom/> and follow him on Twitter: @jereenergy.

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Posted in State-and-regional, Energy on *Wednesday, May 18, 2011 6:00 am* Updated: 4:01 pm. |

Tags: Guernsey, Waste Management, Biomass, Electricity, Cheyenne, Renewable Energy, Waste-to-energy, Environment, Idaho, American Renewable Energy Associates

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Dynamis Energy and Planova Sign Agreement to Construct Waste-to-Energy Plants in Brazil

PR Newswire

EAGLE, Idaho, Oct. 11, 2011 /PRNewswire/ -- Dynamis Energy (www.dynamisenergy.com) and Planova (www.planova.com.br) today launched a partnership to pursue opportunities in South America's growing waste management market. Under the agreement, the companies will work together to build and manage Waste-to-Energy facilities in Brazil, Argentina and Peru.

(Logo: <http://photos.prnewswire.com/prnh/20110323/SF70656LOGO>)

C. Lloyd Mahaffey, Chairman and CEO of Dynamis Energy said, "Planova's position in the market offers us both a substantial opportunity for growth. At every level of business and government, Brazil has set ambitious goals for creating a waste management infrastructure that balances economic and environmental needs. We look forward to making Waste-to-Energy facilities a significant part of that infrastructure."



Dynamis Energy's 3.0 Waste-to-Energy Technology is a state of the art patent pending modular system with the ability to process a wide spectrum of waste streams, uses very little fuel per cycle, and process waste in a very efficient manner, while maintaining very low emissions. These attributes were key factors in the selection of Dynamis technology by Planova.

Chairman of Planova Holding, Mr. Sergio Macedo Facchini said, "Today we begin a new venture to meet Brazil's environmental, energy, and waste management needs. Dynamis

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economy with world-class waste management systems."

About Dynamis Energy, LLC

Dynamis Energy is a leading provider of Advanced Thermal 3.0 Technology used to recycle municipal and other solid wastes to provide sustainable economic and environmental benefits. Dynamis Energy is based in Eagle, Idaho and designs, builds, owns and operates fixed and mobile Waste-to-Energy plants. Dynamis Energy currently has projects underway in North America, South America, the Caribbean, and Europe.

www.dynamisenergy.com

About Planova

Planova, founded in 1975 is based in Sao Paulo, is engaged in works of engineering, procurement, construction and industrial assembly construction with the quality level that meets the needs and expectations of its client segments in oil and gas, petrochemical, power generation, steel, pulp and paper, metallurgy, sugar and alcohol production, processing and recycling.

www.planova.com.br

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Wyoming garbage-fueled power plants move forward

- Story
- Discussion

Wyoming garbage-fueled power plants move forward

By JEREMY FUGLEBERG Star-Tribune energy reporter trib.com | Posted: Sunday, November 27, 2011 2:00 pm | (2) Comments

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Three garbage-fueled power plants in Wyoming are moving ahead, although one appears held up by discussion with county officials.

Two of the plants are planned for the state's southeast corner — one in Guernsey and one in Cheyenne. The third is planned for Riverton.

While progress on American Renewable Energy Associates' two projects in southeast Wyoming may not seem obvious to the public, plans for both the Guernsey and Cheyenne plants are proceeding at a steady clip, said spokeswoman Heather Foster.

"We're still on schedule for the 2012 opening date for our plants," she said.

The Guernsey plant will process 150 tons of garbage a day and produce 9 megawatts, while the Cheyenne plant will process 200 tons per day and produce

13 megawatts, Foster said.

The Guernsey-based company has obtained rights to the technology it needs for the plants, which will convert the garbage into a gas that fires boilers, whose steam drives turbines that produce electricity for sale, Foster said.

The company is working with the Wyoming Department of Environmental Quality for necessary permits, closing in on funding for the projects' construction as well as possible buyers for the power produced. It has also received an interconnection study, a key step in determining how the plants will tie into the power grid.

"That study came back extremely favorable for us," Foster said.

In Riverton, things aren't moving quite as swiftly, said Rick Fawcett. He's the owner of Idaho-based Clean Mountain Energy, which helps communities select sites for such projects, as well the Wyoming

representative for Dynamis Energy, which owns a waste-to-energy technology.

Fawcett met with the Fremont County Commission and the board of the county's solid waste disposal district on Tuesday to discuss the project.

He said the waste disposal board committed to figuring out the cost of waste disposal to the county — a key step in determining the value of garbage to be sold for use by the waste-to-energy plant instead of going to a landfill.

“Until those questions are answered, it’s really difficult for them to make a decision if putting in this plant is a savings to them,” Fawcett said. “Our position all along is that this should reduce their cost of disposal, and if it doesn’t, they shouldn’t do it.”

Fremont County Commissioner Travis Becker said the board, whose members are appointed by the commission, must determine the disposal cost of the waste to negotiate a sales price with Dynamis.

The plant wouldn’t cost the taxpayers any money to build or operate, and if a good deal is made, taxpayers could save money on waste disposal and extend the life of their landfill, he said. But first there needs to be less confusion and better communication.

“You’ve got to have the communication lines open, and I’m not sure those lines were quite open in at least one side’s vision of it,” he said. “I’m hoping, now that we had this meeting yesterday, that a little more understanding is there.”

The board should have disposal costs ready by January, Becker said.

Fawcett seemed frustrated but cautiously hopeful about the future of the project.

“It’s not by any means dead, but there’s certainly no decisions made about whether we’re going to do it or not, either on their part or our part,” Fawcett said.

Reach Jeremy Fugleberg at 307-266-0623 or jeremy.fugleberg@trib.com. Read his blog at <http://trib.com/news/opinion/blogs/boom/> and follow him on Twitter: [@jereenergy](https://twitter.com/@jereenergy).

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Posted in State-and-regional, Energy, Updates on *Sunday, November 27, 2011 2:00 pm* Updated: 8:11 pm. | Tags: Waste Management, Guernsey, Heather Foster, Rick Fawcett, Waste-to-energy, Landfill, American Renewable Energy Associates, Travis Becker, Wyoming Department Of Environmental Quality, Clean Mountain Energy, Waste-to-energy Technology, Dynamis Energy, Fremont County, Jeremy Fugleberg

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PROJECTS SPARK DISCUSSION ON WASTE-TO-ENERGY TECHNOLOGY

JAN 15, 2012 - SVEN BERG - IDAHO FALLS POST REGISTER

By signing a franchise agreement Thursday, Bonneville, Madison, Clark and Fremont counties moved Dynamis Energy one step closer to building a waste-to-energy plant in Dubois.

But not everyone is convinced the project will take root. While discussion of the Dubois plant has been minimal so far, controversy surrounds a much larger version of it that's planned for Ada County.

Critics of the proposed Ada County project object to the way both the county and Dynamis have handled the process of moving it forward. They question the lack of a bidding process and the county's outlay of nearly \$2 million for the plant's design. They wonder if Ada County ever will receive a benefit in return.

"The Dynamis contract does not guarantee that the waste-to-energy project will work or even that the waste-to-energy project will probably work," Boise attorney Jon Steele wrote in a statement released Friday. "While science and technology make the Dynamis project possible, science and technology have not made the Dynamis project economically feasible."

David Frazier, who runs the news website Boise Guardian, said he, too, is not sold on Dynamis' claims that its technology is viable.

"The whole thing is pie in the sky at this point," Frazier said. "It's fair to say that Dynamis is seeking ratepayer funding and Ada County taxpayer funding for unproven technology," Frazier said.

Dynamis proposes to use bins with closely controlled temperatures and pressures to heat household garbage. That process causes the garbage to release a synthetic gas that can be used as fuel. The fuel gas is then burned to boil water, producing steam, which turns a turbine and produces an electrical current.

At maximum capacity, the Ada County plant is projected to produce as much as 22 megawatts. The Dubois plant has a maximum capacity of 4 megawatts.

Producing the synthetic gas is the hard part.

One of the reasons Dynamis chose this technology was the advantage of not requiring pretreatment, such as sorting or grinding, of the garbage, said Rick Fawcett, who is working through his company, Whisper Mountain, helping Dynamis piece together its Dubois project. But the fact that household garbage often is very wet and contains a huge, unpredictable range of items further complicates the gas-production side, said Robert Cherry, a senior research engineer for Idaho National Laboratory.

"People can discard all kinds of problematic materials like car batteries, tree branches and rocks," Cherry said via email. "These can interfere with processing."

So far, no waste-to-energy plant built exactly to the Dynamis model is operational anywhere in the world.

Dynamis hopes to bring online at least four plants, including those in Dubois and Ada County, around 2014, Fawcett said.

A plant that features the Dynamis garbage-gasification concept has been operating in Barrow, Alaska, since 1996, Fawcett said. That plant doesn't produce electricity, but Fawcett said it does produce synthetic gas. Once you have the gas, using it to make electricity is a simple, time-tested process.

Page two

The four eastern Idaho counties that are collaborating in Dynamis' Dubois project also have contributed money – about \$15,000 each. Part of that money has paid for a feasibility study and some attorney fees. But it's small change next to the nearly \$2 million Ada County has committed to the Dynamis project.

Another question is how much customers will have to pay for electricity produced at the Ada County plant.

The Idaho Public Utilities Commission is considering a proposal for Dynamis to sell power produced there for \$92.53 per megawatt hour. That's more expensive than Idaho Power's low-tier electricity, but it reflects the price the utility would pay another electricity provider if it were not buying from Dynamis, said Randy Lobb, utilities division administrator for the commission.

Saturday January 21, 2012

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Electricity Declines 50% as Shale Spurs Natural Gas Glut: Energy

January 19, 2012, 8:56 AM EST

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By Julie Johnsson and Mark Chediak

Jan. 17 (Bloomberg) -- A shale-driven glut of natural gas has cut electricity prices for the U.S. power industry by 50 percent and reduced investment in costlier sources of energy.

With abundant new supplies of gas making it the cheapest option for new power generation, the largest U.S. wind-energy producer, NextEra Energy Inc., has shelved plans for new U.S. wind projects next year and Exelon Corp. called off plans to expand two nuclear plants. Michigan utility CMS Energy Corp. canceled a \$2 billion coal plant after deciding it wasn't financially viable in a time of "low natural-gas prices linked to expanded shale-gas supplies," according to a company statement.

Mirroring the gas market, wholesale electricity prices have dropped more than 50 percent on average since 2008, and about 10 percent during the fourth quarter of 2011, according to a Jan. 11 research report by Aneesh Prabhu, a New York-based credit analyst with Standard & Poor's Financial Services LLC. Prices in the west hub of PJM Interconnection LLC, the largest wholesale market in the U.S., declined to about \$39 per megawatt hour by December 2011 from \$87 in the first quarter of 2008.

Power producers' profits are deflated by cheap gas because electricity pricing historically has been linked to the gas market. As profit margins shrink from falling prices, more generators are expected to postpone or abandon coal, nuclear and wind projects, decisions that may slow the shift to cleaner forms of energy and shape the industry for decades to come, Mark Pruitt, a Chicago-based independent industry consultant, said in a telephone interview.

Power Earnings Impact

Natural gas fell today on investor concerns that mild winter weather in the U.S. will damp demand. Natural gas for February delivery fell 18.2 cents, or 6.8 percent, to \$2.488 per million British thermal units on the New York Mercantile Exchange, the lowest settlement price since March 2002.

"You're lowering the earnings ceiling every time natural-gas prices drop," said Pruitt, former director of the Illinois Power Agency, which negotiates power-purchase agreements for the state's utilities.

Price declines are expected to hurt fourth-quarter 2011 earnings and continue to depress profits through 2012, Angie Storzynski, a New York City-based utilities analyst with Macquarie Capital USA Inc., said in a Jan. 11 research note.

Hardest hit will be independent power producers in unregulated states such as Texas and Illinois, which don't have the protections given regulated utilities where states allow a certain level of profits.

60 Percent Decline

The Standard & Poor's independent power producer index, which groups Constellation Energy Group Inc., NRG Energy Inc. and AES Corp., has fallen 60 percent since the beginning of 2008, compared with a 14 percent drop for the Standard & Poor's 500 Index, according to data compiled by Bloomberg.

Low gas prices drained the momentum from a resurging nuclear industry long before last year's meltdowns at the Fukushima Dai-ichi plants in Japan, said Paul Patterson, a New York City-based utility analyst with Glenrock Associates LLC. No applications to build new reactors have been filed with federal regulators since June 2009.

Exelon, the largest U.S. nuclear operator, canceled plans last summer to boost capacity at two nuclear plants in Illinois and Pennsylvania after analyzing economic factors, Marshall Murphy, a spokesman for Chicago-based Exelon, said in an e-mail.

CMS Energy's canceled coal plant, planned for Bay City, Michigan, would have showcased the newest pollution-control technology for capturing and storing carbon-dioxide emissions.

Wind Expansion Slows

Investors also are cooling on wind investment because of falling power prices, a lack of transmission infrastructure and the possibility that federal subsidies may expire next year. T. Boone Pickens, one of wind power's biggest boosters, decided to focus on promoting gas-fueled trucking fleets after canceling plans for a Texas wind farm in 2010.

"Boone still sees wind being a key part of America's energy future," Jay Rosser, a spokesman for Pickens, said in an e-mail. "Natural-gas prices will ultimately rise and make wind energy more competitive in the process."

NextEra didn't include new U.S. wind projects in its financial forecast for 2013, Lew Hay, chief executive officer of the Juno Beach, Florida-based company, said in a November conference call with investors. NextEra's wind expansion after 2012, when a federal tax credit for wind generators is expected to expire, is contingent upon "public policy support," said Steve Stengel, a spokesman for NextEra, in a telephone interview.

"Wind on its own without incentives is far from economic unless gas is north of \$6.50," said Travis Miller, a Chicago-based utility analyst at Morningstar Inc.

Shale Gas Boom

U.S. gas supplies have been growing since producers learned how to use hydraulic fracturing and horizontal drilling to tap deposits locked in dense shale rock formations. Gas prices have been falling since mid-2008, when a global recession sapped demand just as drilling accelerated in the gas-rich Marcellus shale in the eastern U.S., according to data compiled by Bloomberg.

Gas prices collapsed further in late 2011 on concerns mild winter weather in the U.S. will curb demand for the heating fuel. Gas is expected to stay below 2011's average price of \$4.026 for the next two years, priced at around \$3.10 per million British thermal units for 2012 and \$4 for 2013, according to Robert W. Baird & Co., an investment bank based in Milwaukee.

New Gas Generation

Declining power prices may also make it unprofitable for utilities to install pollution controls on older coal-fired plants, adding to the wave of plant closures that are expected to result from new U.S. Environmental Protection Agency rules over the next two to three years, Pruitt said.

As much as 90 gigawatts of new generation, enough capacity to light 72 million homes and businesses, will be needed by 2015 to replace retiring coal plants and meet electricity demand, according to a Nov. 30 research report by Hugh Wynne, an analyst at investment bank Sanford C. Bernstein.

Cheap gas makes it difficult for rival forms of fuel to compete, said Sam Brothwell, a senior utility analyst with Bloomberg Industries, in a telephone interview. Historically, gas-fired generators have been the least expensive to build, offset by a higher fuel cost, Brothwell said. With gas falling below \$3, "it makes all other forms of producing electricity look less competitive by comparison," he said.

Gas Power Costs

The cost, including construction, to produce one megawatt hour of gas-fueled electricity was \$62.37 an hour in the third quarter of 2011, which was less expensive than coal, wind and solar generators, according to data compiled by Bloomberg.

Power companies are leery of becoming too dependent on gas, which historically has had the biggest price swings of all the power fuels. In 2005, gas prices climbed to nearly \$14 after hurricanes disrupted production in the Gulf of Mexico.

Project cancellations, along with a broader switch from coal to gas, will leave the industry with fewer alternatives and thus more exposed to rising gas prices, Pruitt said.

"The way to make \$4 gas \$8 gas is for everyone to go out and build combined-cycle natural-gas plants," Michael Morris, non-executive chairman of American Electric Power Inc., said at an industry conference in November. "We need to be cautious about how we go about this."

--With assistance from Jim Polson and Benjamin Haas in New York. Editors: Charles Siler, Jessica Resnick-Ault

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jstack6

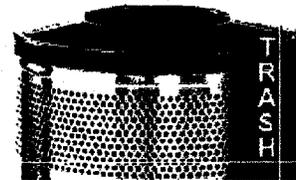
but how long will low NG prices last? as fracking gets more regulation it may jump again as it has many times in the past.

Only Renewable Energy keeps going down in price.



waste management for Spokane

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- Disposal Sites (hours, rates, map)
- Recycling
- Waste to Energy
- Hazardous Waste
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WASTE TO ENERGY FACILITY

Mandatory service area: Spokane County / 430,000 ratepayers
Type of contract: Full service/Operate Wheelabrator / Waste Management
Ownership: City of Spokane
Financing (\$110 million): Revenue Bonds - Mandatory debt to entire County
 Department of Ecology Grant (\$60 million)
Start-up: 1991

Expenses and Revenues for 2009:

Cost of Operation	\$17.2 million (\$62 per ton)
Cost of Ash Disposal	\$4.1 million (\$47 per ton)
Cost of Debt	\$9 million
TOTAL COSTS	\$30.3 million
Electricity Revenue	\$11.4 million
Materials Recovery	\$0.1 million
NET COST OF OPERATIONS	\$18.8 million (\$68 per ton)

Refuse Combustion:

Operation: 24-hours per day, 7 days per week
Process Lines: 2 @ 400 tons-per-day
Plant maximum daily capacity: 800 tons
Average thru-put: 720 tons per day (365 days per year)
Feed system: 2 overhead refuse cranes with ram feeder
Grate design: Von Roll reciprocating
Combustion temperature: 2500° F
Auxiliary fuel: Natural gas
Waste weight reduction: 65%
Annual Greenhouse Gas Production 600,000,000 Pounds CO₂
CO₂ per MWH 4480 pounds of total CO₂ per Megawatt Hour:
 1580 pounds of fossil CO₂ / MWh plus,
 2900 pounds of bio CO₂ / MWh

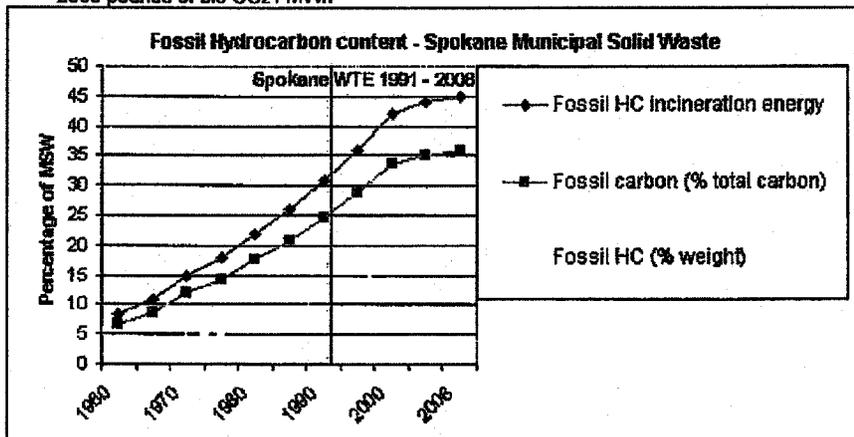
Historical Data

Major repairs needed for WTE

Regional System audit
 Management engineered version

Spokane WTE 2008 Downtimes

Compare Wheelabrator Facilities



Solid Waste Management

Ash handling system: Semi-dry, vibrating pan conveyor
Materials recovery: 10", aggregate, ferrous
Air Quality Control: Type of equipment: Dry scrubbers-Fabric filters-deNOx (2 units)

Energy Production:

Type of energy: Electric power
 Steam flow to turbine: 188,000 pph @ 830 psig/825° F
 Heat energy produced: 125 megawatts
 Average sellable electricity output: 16.1 megawatts (141,000 MWh/year, 8760 hours in a year)
 Efficiency: 13%
 Cooling system: Air cooled condenser
 Customer: Puget Sound Power and Light Inc.

Facts & Figures:

Plant Maximum Capacity: Equals 800 Tons/day, two 400/ton per day boilers.
 Guaranteed capacity: 248,200 Tons/yr., 720 tons/day
 Effective maximum capacity: 275,000 Tons/yr
 Max capacity reached: 1992, excess hauled to Klickitat County
 Electrical output: 26 megawatts maximum - 20 megawatts average - 16 MW sold
 Turbine Speed: 3600 rpm producing 60 Hertz (60 cycles/sec)
 Pit Dimensions & capacity: 140' x 50' x 40'; 40' back wall; 4800 tons
 Receiving floor: 62,000 square ft. or 1.4 acres
 Stack: 175' tall, preformed concrete sections, contains three flues
 Fire Temperature: 2500 degrees F
 Temp/Velocity of exiting stack gases: 250 degrees F, 4000 ft per minute

Construction involved:

16,415 cubic yards of concrete
 198,692 cubic yards soil imported
 45,251 feet of pipe
 3,248 Tons of structural steel
 350,829 feet/66.445 miles of cable
 10,740 feet/2.3 miles of cable tray
 2,396 field welds
 Time to construct: 22 months
 First refuse fire: September 8, 1991
 Refuse crane: capacity = 9 tons or 6.5 cubic yards; Typical load = 2-3 tons
 Computer System: Bailey Network 90
 Cost: 110 Million dollars, largest capital project for City of Spokane.
 Ownership: City of Spokane.
 Debt responsibility: City of Spokane & Spokane County & all municipalities within.

Wheelabrator / Waste Management involvement:

Design, construct, operate and maintain for 20 years at 100% profit margin.

Technology:

Ash Quantity: 65% reduction by weight of original MSW weight.
 Ash Disposal: Rabanco Regional Landfill, Klickitat County (near Roosevelt, WA).
 Ash Transport: Container capacity 15 tons. Configuration: two containers per load, 30 tons per truck, 8-10 truckloads/day. Intermodal train container, 25-28 ton capacity.
 Iron recovery: 2.5% of original weight of MSW. Iron is not recovered with traditional landfilling.
 Built for expansion: Extended Conveyors; Big pit; Extra flue in stack; Boiler APC turbine needed
 Air Cooled Condenser: Totally dry cooling-6 cells, 150 HP motors
 Boiler tube length: Approximately 100 feet, suspended from roof structural steel

Bag Houses:

Bag houses contain 3420 bags (1710 per boiler line).
 Filtering bags are made of Gore-Tex fabric.
 Continuous Emission Monitors: Read every 15 seconds-O₂, SO₂, NO_x, Opacity, CO, Temperature
 Property Area: 52 Acres

Similar technology:

No Waste-to-Energy sites have been built in the U.S. for the last 15 years. Wheelabrator operates 13 other similar old facilities in the U.S. There are over 500 plants in the world, approximately 136 using the same basic technology. More than 20 equal to or larger than 800 TPD.

Regulatory Agencies:

Spokane Air Pollution Control Authority (SCAPCA)
 Washington Department of Ecology (WDOE)
 Spokane Regional Health District (SRHD).

BTU values:

Garbage = 4,800/pound
Coal = 12,000/pound

Plastic = 14,000/pound
Tires = 16,000/pound

Spokane Waste to Energy - Advancing intelligent waste management solutions. Web hosted by Osprey Communications.

**Comments of Idaho Power Company
To the Interim Committee on Energy, Environment and Technology
On the Draft 2012 Idaho Energy Plan**

Members of the Interim Energy, Environment and Technology Committee:

Idaho Power appreciates the opportunity to offer its comments on the draft 2012 Idaho Energy Plan to members of the Interim Energy, Environment and Technology Committee, and as the largest investor-owned electric utility in the state, Idaho Power commends members of the Interim Committee for their leadership and willingness to help shape the state's energy future. Idaho Power would also like to commend the Interim Committee, the Office of Energy Resources, and the leadership and members of the Idaho Strategic Energy Alliance (ISEA) for the time and energy that has been devoted to updating the 2007 Idaho Energy Plan.

Idaho Power employees are actively involved in the various ISEA task forces, and at a board level.

Idaho Power's comments are focused on five general areas:

- emphasizing the strategic nature of the plan;
- energy and economic development;
- transportation – the elephant in the room;
- consumer advocacy;
- energy planning vs. energy statistics; and

Two specific comments regarding:

- adoption of International Building Codes, and
- PURPA regulations and encouraging development of customer-owned renewable generation.

Emphasizing the Strategic Nature of the Energy Plan

Idaho Power believes Idaho's energy plan should be strategic and directional in nature, as opposed to being overly tactical and prescriptive. Initiatives to implement the strategies set forth in the plan should be evaluated and vetted through the legislature at the time the specific initiative is proposed. The energy business is changing rapidly and the state's energy plan needs to be capable of adapting to the changing environment. This approach is similar to the Integrated Resource Planning (IRP) process, in which a utility IRP is acknowledged or accepted for filing by the Idaho Public Utilities Commission (IPUC), but not approved. The fact that the resource

plan contained in the IRP is not “approved” provides the utility and the IPUC with the flexibility to adapt to changing circumstances.

Energy and Economic Development

The plan identifies “opportunities for economic development associated with energy production as well as in serving global energy markets through manufacturing and services” as one of the three pillars of Idaho’s energy future. Idaho Power believes there is a strong linkage between access to affordable energy services and a successful economic development program. Idahoans’ access to some of the lowest electricity rates in the country, coupled with the region’s abundance of natural resources, emerging energy-related businesses and related research at our state universities, the Center for Advanced Energy Studies (CAES), Idaho National Lab (INL), and the region’s quality of life make Idaho a natural for energy-related economic development.

Idaho Power strongly supports the concept of aligning the allocation of low cost energy with public benefit value, as detailed in section 4.3 of the draft, and it encourages the Interim Committee to embrace and build on this concept. This approach can be especially successful if the right types of new businesses are attracted to Idaho and they provide a high ratio of economic benefit to their energy requirements, helping to preserve low rates for all customers. In order to support future economic development, in its 2011 IRP Idaho Power has proposed adding an additional 80 MW of peak-hour load to its load and resource balance beginning with the 2013 IRP. The resulting 80 MW of additional peak-hour capability will be available to support both existing and new large load customers.

Idaho Power stands ready to support the electrical needs of the state’s growing economy, including working with the Interim Committee, members of the legislature, the Governor’s office, Department of Commerce, Office of Energy Resources and the IPUC, to craft meaningful economic development programs.

Transportation – the Elephant in the Room

While we believe that access to a low cost, reliable supply of electricity is one of the keys to economic development – and Idaho Power will continue to work to ensure its customers have access to an abundant supply of low cost electrical energy – this is only part of the energy picture for the average Idahoan. As detailed in Table 2.3 on page 56 of the draft, the average Idaho household spends \$1,195/year for electricity, 27% of their annual energy bill. Compare this to gasoline expenditures. The average household spends \$2,555/year on gasoline, 57% of their annual energy bill – more than twice as much as they spend on electricity.

The ISEA has identified the need to establish a task force on transportation to investigate ways to reduce the average household’s expenditures for gasoline. Idaho Power fully supports the idea of establishing a transportation task force and encourages the Interim Committee to address this issue. With over 582,000 households in Idaho, this works out to over \$1.4 billion/year on gasoline! In fact, during 2005 transportation accounted for the largest percentage of Idaho’s

gross greenhouse gas (GHG) emissions¹. So, if the state can implement programs that result in meaningful reductions in gasoline usage through conservation and efficiency, carpooling, regional land use planning programs and policies to reduce vehicle miles traveled, and development and use of public transportation where practicable, Idahoans will be able to reduce their energy expenditures and reduce Idaho's GHG emissions. Carpooling or other programs that result in a 10% reduction in fuel expenditures could save Idahoans over \$140 million per year.

Consumer Advocacy

Other comments submitted on the draft 2012 Energy Plan suggest the need for a consumer advocate office to represent residential customer interests. Acknowledging the importance of stakeholder engagement, Idaho Power does not believe the 2012 Idaho Energy Plan, or comments on the Plan, are the appropriate vehicles for debating the pros and cons of establishing and funding a consumer advocate office.

As a regulated utility operating under the jurisdiction of the IPUC and the OPUC, Idaho Power has some of the lowest residential rates in the country. This is at least due in part to the diligence of the IPUC Commissioners and Staff, and the regulatory oversight they provide for Idaho's investor owned utilities. With this in mind, Idaho Power encourages the Interim Committee to focus on the strategic issues identified in the plan and work to maximize the effectiveness of any additional energy related programs or expenditures.

Energy Planning vs. Energy Statistics

The draft 2012 Idaho Energy Plan is approximately 150 pages in length. Idaho Power encourages the Interim Committee to consider separating the planning and policy components of the plan from the energy statistics and status sections. Statistics and status change quickly – some will be out of date soon after the 2012 Idaho Energy Plan is released, but the strategic aspects of the policy should be longer lived. With this in mind, Idaho Power suggests that the Interim Committee consider ways to address the *enhancing our collective IQ component* of the 2012 Idaho Energy Plan, by making numerous sections of the draft Plan available in an on-line format that is updated more frequently than once every five years. If implemented, this change will reduce the size of the document and help to emphasize the strategic nature of the Plan.

International Building Codes

Idaho Power believes that it is important for the state's building codes to remain current. From our perspective, it is more efficient to incorporate energy efficiency features in buildings during their initial construction than it is to retrofit an existing building. However, we also recognize that the state faces a number of implementation issues associated with updating the building codes on a regular basis. Is adopting the updated International Building Codes every three years the right answer? Idaho Power encourages the Interim Committee to discuss the implementation concerns with the appropriate state agencies, and to develop a policy recommendation that takes

¹ http://www.deu.idaho.gov/media/345475-ghg_inventory_idaho_sp08.pdf, see page iii

into consideration both the lost opportunities (from an energy efficiency perspective) and the implementation issues to reach a balanced solution that addresses the interests of all stakeholders.

PURPA Regulations and Encouraging Development of Customer-Owned Renewable Generation Projects

Idaho Power has serious concerns regarding the potential modifications to Action E-7 discussed at the Interim Committee's meeting held on November 3, 2011. Action E-7, as listed in the October 14, 2011 draft of the 2012 Idaho Energy Plan, reads as follows:

In accordance with federal law, the Idaho PUC should continue to administer its responsibilities under the Public Utility Regulatory Policy Act.

Idaho Power has no objection to the above action. However, at the November 3rd meeting, discussion of potential modifications to this action tended to gravitate to the language and concepts contained in the 2007 Idaho Energy Plan (Action E-16), which reads as follows:

The Idaho PUC should administer its responsibilities under the Public Utility Regulatory Policy Act in a way that encourages the development of customer-owned renewable generation and combined heat and power facilities.

Idaho Power has serious concerns with this language. If the intent of incorporating the additional language is to direct the IPUC to provide preferential pricing to incent the development of certain types of renewable Qualified Facilities (QF), then Idaho Power recommends that the Interim Committee review the applicable PURPA regulations and consult with legal counsel on this issue.

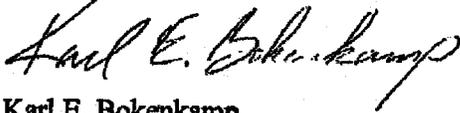
PURPA is not meant to incent renewable energy projects with the price that is paid to a Qualified Facility (QF). In fact, an incentive price for QFs is illegal under PURPA, as PURPA requires prices to be set at the utility's avoided cost, which is to reflect the incremental cost to an electric utility of electric energy or capacity or both, which, but for the purchase from the QF, such utility would generate itself or purchase from another source. *See Independent Energy Producers Association v. California Public Utilities Comm'n*, 36 F.3d 848, 858 (9th Cir. 1994) ("If purchase rates are set at the utility's avoided cost, consumers are not forced to subsidize QFs because they are paying the same amount they would have paid if the utility had generated energy itself or purchased energy elsewhere."). The incentive to QF development from PURPA is therefore not in the price that a QF is entitled to but in the fact that the utility is required to contract with the QF. *See* 16 U.S.C. § 824a-3(a).

PURPA requires that utility customers be economically indifferent to the effects of whether power is purchased from a QF or otherwise acquired (generated or purchased) by the utility. *Southern California Edison Co.*, 71 F.E.R.C. P 61,269, 1995 WL 327268 (F.E.R.C. 1995) ("The intention [of PURPA] was to make ratepayers indifferent as to whether the utility used more traditional sources of power or the newly-encouraged alternatives."). When the utility is forced to buy QF power in excess of its true avoided cost, customers are no longer indifferent.

Conclusion

In conclusion, Idaho Power appreciates the opportunity to submit these comments and we commend the members of the Interim Committee on Energy, Environment and Technology for their leadership and willingness to address the state's energy needs. We encourage the Interim Committee to develop a plan that is strategic in nature, focusing on the state's energy future and the path we take to get there. Idaho Power is actively planning to meet the future electrical energy needs of its customers, and the company stands ready to assist the Interim Committee in development of the 2012 Idaho Energy Plan.

Sincerely,



Karl E. Bokenkamp
Director Operations Strategy
Idaho Power Company

TIPPING FEES

Ada County Landfill	\$16-\$17 per ton
Canyon County Landfill	\$14.50 per ton

TIPPING FEES WASTE TO ENERGY FACILITY

Spokane <i>See, p. 82</i>	\$68 per ton
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COMPARISON OF RENEWABLE ENERGY RATES

	<u>Facility Type</u>	<u>Capacity</u>	<u>Price per MWH</u>
1.	Waste-to-Energy Facility Dynamis	22MW	20 year level price of \$92.65 per MWH
2.	Landfill gas facility Hidden Hollow # 1 Hidden Hollow # 2	3.2 MW 3.2 MW	\$48-62 MWH \$63.78 MWH in 2012 increasing to \$124.47 per MWH in 2031
3.	Hydro Riverside Investments	1.27 MW	\$53.20 per MWH in 2012 Increasing to \$107.27 per MWH in 2032
4.	Wind High Mesa Energy	40 MW	20 year level price of \$56.43 per MWH
5.	Biogas Cargill	1.7 MW	\$60.24 per MWH in 2011 escalating to \$90.63 per MWH in 2021