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*** NOTE: The following text does NOT contain the footnotes that appear in the original text. These footnotes are necessary for a comprehensive understanding of basis for the denial. Please contact your Regional NSR contact if you wish a complete copy of the order. ***

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

_____))
In the Matter of:))
))
Bio Energy Corporation) PSD Appeal No. 89-6
West Hopkinton, NH))
))
PSD File No. 041-121-NH07))
_____))

REMAND ORDER

Upon the joint request of the Regional Administrator of Region I of the U.S. Environmental Protection Agency and Bio Energy Corporation, and pursuant to 40 CFR 124.19, all matters regarding the PSD Permit Denial Decision dated November 15, 1989, concerning Bio Energy's PSD application for its wood-fired power plant located in West Hopkinton, New Hampshire, are remanded to the Regional Administrator of Region I so that further comments and technical information may be received to supplement the administrative record.

All further action by the Administrator with respect to Bio Energy's PSD appeal is stayed until Region I notifies the Administrator that the Region has reached a final determination in response to the remand.

Pursuant to this remand, Bio Energy will be allowed to submit further information requested by the Region to supplement the administrative record, and the Region will be allowed to reopen the comment period and to consider revising its permit determination.

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This remand to the Regional Administrator shall be without prejudice to Bio Energy's rights under its Petition for Review by the Administrator, and to the Regional Administrator's findings in the final determination dated November 15, 1989, to the extent the supplemental administrative record on remand does not address or modify those findings.

Region I's determination on remand will be subject to review under 40 CFR 124.19, and appeal of its decision on remand will be required to exhaust administrative remedies under 40 CFR 124.19(f).

So ordered.

Dated:1-4-90

William K. Reilly
Administrator

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Remand Order in the matter of Bio Energy Corporation, PSD Appeal No. 89-6 were mailed to the following persons in the manner indicated:

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Dated: January 8, 1990

Brenda H. Selden, Secretary
to the Chief Judicial Officer