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THE FLORIDA CABINET

Sitting as:

THE SITING BOARD

DEPARTMENT OF ENVIRONMENTAL REGULATION

IN RE: Consideration of a)
Recommended Order from)
Hearing Officer and)
Exceptions regarding)
Florida Crushed Stone's)
application for power)
plant certification.)

AGENDA ITEM NO. 1
March 6, 1984

P R O C E E D I N G S

The above-entitled matter came on to be heard before the GOVERNOR AND CABINET, sitting as the SITING BOARD, DEPARTMENT OF ENVIRONMENTAL REGULATION, at the Cabinet Conference Room, LL-03, The Capitol, Tallahassee, Florida, on Tuesday, the 6th day of March, 1984, commencing at approximately 2:10 P.M.

Reported by:

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Court Reporter

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P R E S E N T

BOB GRAHAM; Governor

GEORGE FIRESTONE, Secretary of State

GERALD LEWIS, Comptroller

JIM SMITH, Attorney General

RALPH D. TURLINGTON, Commissioner of Education

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P R O C E E D I N G S

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2 GOVERNOR GRAHAM: Department of Environmental
3 Regulation.

4 MR. BOTTCHER: Thank you, Your Honor. I am John
5 Bottcher, attorney with the Department of Environmental
6 Regulation. We are here to discuss again the power
7 plant certification issue involving an application by
8 Florida Crushed Stone. With me today is Mr. Buck Oven,
9 the power plant coordinator from the Department, and
10 representing Secretary Tschinkel is Steve Smallwood,
11 chief of air quality for the Department. Mr. Smallwood
12 could address any policy ramifications you wish to
13 discuss on the air quality allocation issue.

14 Secretary Tschinkel sends her apologies for not
15 being able to be here this afternoon.

16 The parties to this proceeding, as I mentioned,
17 the Applicant, Florida Crushed Stone, of course, the
18 Department of Environmental Regulation and we have
19 Intervenors. The main Intervenor that we'll be
20 hearing from today is Florida Mining and Mineral. We
21 received a recommended order from the hearing officer
22 and this was discussed at length on February 21st,
23 and deferred until today.

24 Florida Crushed Stone wishes to construct and
25 operate a coal-fired cogeneration facility near

1 Brooksville, Florida to produce electricity and cement.

2 We left two issues pending the last time, one was
3 the propriety of the Department's BACT determination,
4 that's Best Available Control Technology, and then the
5 issue of the allocation of the remaining air quality
6 increment.

7 I wish to go into a brief history on the allocation
8 process. Anytime you have any environmental decisions
9 made you allocate the resource to a certain extent.
10 Somebody gets to use it and somebody, therefore, does
11 not get to use it. Starting back in the early 1970s
12 with the Clear Air Act of 1970, the federal government
13 tried to set forth a process to allocate increment.
14 This was litigated for more than ten years. Congress
15 finally came to grips with it in 1977, adopted an act
16 setting forth the basic scheme that we operate under
17 today, and it essentially sets forth two types of
18 standards; one, ambient standards, which are to protect
19 public health and welfare. These are your adverse
20 effects standards above which you expect adverse
21 effects, and then there is the other type of standards,
22 called PSD, Prevention of Significant Deterioration,
23 which is designed to protect those areas of the United
24 States which are already clean, that are already below
25 the adverse effects standards. This PSD program is

1 further divided into the various classes. We have
2 Class I through III. Florida has only two classes,
3 Class I and Class II, Class I being those preservation
4 areas, wilderness areas, national parks, for which we
5 have very stringent increments of pollution allowed,
6 and everything else is Class II in Florida.

7 During the process of developing this regulatory
8 scheme, there was great debates about allocating the
9 remaining increment. Starting in the early '70s, the
10 DPC, prior to the DER, attempted to write rules on it.
11 We had a rule, a nondegradation rule, and at that time
12 there was a serious proposal to allocate the remaining
13 increment on a -- the next person gets half -- when
14 anyone comes in, you only allow any one person to get
15 half of what's left. That way you never run out. That
16 never was adopted.

17 Later, I think around 77-78, a sole source
18 increment proposal was considered by the Environmental
19 Regulation Commission that would set a maximum for any
20 one source. Right now the way it is, the increment is
21 set up to where all the sources cannot violate that
22 increment, and for Class I those increments are very
23 stringent.

24 Well, this proposal then was to -- well, let's
25 not allow any one source to take no more than a certain

1 amount. At that time the proposal for sulfur dioxide
2 on a 24-hour basis was 10 micrograms. That was not
3 adopted.

4 The issue was again addressed by rule-making
5 through the Department in 1980 and '81, with the final
6 adoption in '81 of the rules we operate under today,
7 and which we feel is adequate for allocating the
8 resource.

9 There is no specific provision for allocation of
10 the resource; however, it can be allocated and is
11 allocated on a case-by-case basis through determination
12 of Best Available Control Technology.

13 To put this in perspective, when a source comes
14 in for a DER license, they have to show to us that
15 they meet all our numerical standards. We have dozens
16 of standards. For S₀2 alone, there is ten standards.
17 They have to show us they meet every one of those, and
18 then, if they meet every one of those -- and then, if
19 they meet all of those, we go into another process
20 called determination of BACT in which we look at the
21 environmental, the social and the economic aspects of
22 even requiring them to emit less. That's where we
23 look at the allocation of the increment.

24 If we do a determination of Best Available Control
25 Technology we go public with it. There is public

1 notice required by the state and federal law, and in
2 our power plant siting there is even more public notice.
3 At that time entities that see this as either con-
4 straining them or somehow prohibiting future growth in
5 that area can come forward and present evidence that
6 our allocation was wrong, and that's what happened
7 precisely in this case. Counties can come in. The
8 growth management agencies could come in and say,
9 "Wait a minute, you're giving that increment to some-
10 body that's not in our comprehensive plan," or, "You're
11 giving too much."

12 Well, we'll take into account that increment
13 consumption and balance that with what the technology
14 will allow to reduce the emissions. If, on balance,
15 we can reduce the emissions and reduce the consumption
16 of the increment, we do that. That's precisely what
17 happened here, and the hearing officer found,
18 specifically, that our Best Available Control Technology
19 did this, that it was supported by competent substan-
20 tial evidence.

21 The evidence is that the best control strategy
22 for this facility is a sulfur emission standard of
23 .74, which is the most stringent in the state of
24 Florida. It does not require a scrubber. It is
25 predicated on the use of low sulfur coal with some of

1 the sulfur dioxide absorbed into the cement as the flue
2 gases go through the cement plant.

3 It's a fairly innovative concept. We were
4 convinced that this is the best control available,
5 when you take into account other balancing factors.

6 Now, for other new sources, any large power plant
7 that's built in the United States has to put on a
8 scrubber now under federal law. This particular
9 facility falls into an exception of that requirement of
10 having to put on a scrubber. That requirement for a
11 scrubber was imposed by Congress so that we encouraged
12 the use of high sulfur American fuel, as opposed to
13 importing fuel or using up the smaller reserves of low
14 sulfur fuel. It was a policy decision to encourage the
15 use of this natural resource in the United States.

16 The scrubber would have serious environmental and
17 social adverse effects, and this is why we propose that
18 the facility have an air standard absent a scrubber.
19 The scrubber would have consumed fresh water, would
20 create a toxin-laden sludge which would have to be
21 disposed of, which would probably mean a landfill and
22 risk to groundwater pollution. It would cost more.
23 It would use up electricity that would otherwise be
24 used by consumers.

25 We just felt, on balance, there was no need for a

1 scrubber since they were achieving the lowest emission
2 standards. The hearing officer found that, and we're
3 in the posture here today of recommending that you
4 adopt the hearing officer's findings of fact on that
5 issue.

6 Now, on the issue of allocation, it was suggested
7 that perhaps we look again through rule-making at an
8 allocation formula, or some other allocation process.
9 We're familiar with other states -- there is four
10 states that we know of that have the process, numerical
11 numbers -- numerical process, whereby you're only
12 allowed to use 50 percent or 75 percent of the remain-
13 ing increment; however, in the final analysis it comes
14 down to a case-by-case approach. Each one of those
15 states has a process where, "Well, we really want that
16 facility; therefore, we'll give them more." Most all
17 the states, by far the majority of the states have
18 adopted the federal scheme, which is identical to the
19 Florida scheme, which is, you take this into account
20 through your Best Available Control Technology.

21 As I mentioned the last time, we recommend the
22 adoption of the hearing officer's recommended order
23 and the specific denial of all the exceptions filed by
24 Florida Mining.

25 Is there any questions?

1 GOVERNOR GRAHAM: Are there any questions? I
2 guess -- you said that, without scrubbers, this project
3 met the standards?

4 MR. BOTTCHEER: Yes, sir.

5 GOVERNOR GRAHAM: For nondegradation?

6 MR. BOTTCHEER: Yes, sir.

7 GOVERNOR GRAHAM: With scrubbers, would they have
8 met the standard to a greater extent or be further
9 below the ceiling?

10 MR. BOTTCHEER: Not necessarily. They could have
11 both higher sulfur coal, put scrubbers on it, and still
12 had the same type emissions. In fact, the federal law
13 would allow that to occur, where they would have had
14 the same emissions that they now are getting under this
15 proposal and still have the scrubbers on it, but the
16 scrubbers could reduce it even further, because the
17 amount of sulfur that comes out is a function of the
18 sulfur in the coal and the amount that's removed after
19 it's burned, and, in this particular facility, some of
20 it will be removed going through the cement plant.

21 If you put a scrubber on -- if you have a scrubber
22 with 70 percent efficiency or 90 percent efficiency,
23 that would remove that much more sulfur. So, you can
24 lower the numbers even lower than what's proposed here
25 by use of a scrubber, but we feel, even though you

1 could lower the S₀2 limits, you start getting these
2 other adverse effects coming into play, which balance
3 out going lower on the S₀2.

4 GOVERNOR GRAHAM: Is there any questions? Yes,
5 Mr. Firestone.

6 MR. FIRESTONE: It's been alleged that the
7 allocation that would be utilized by this permit would
8 preclude any further economic development in the county.
9 Would you care to comment on that? In other words,
10 would that eliminate the opportunity for any kind of
11 industrial growth in that county by virtue of the fact
12 of not having any allowable options there in terms of
13 the --

14 MR. BOTTCHER: No, it would not totally eliminate it.
15 It would -- of course, the whole purpose of these
16 standards, this nondegradation standard, is to put a
17 limit on the amount of sulfur dioxide that's emitted
18 in the area, and in this case it's to protect the
19 Class I Chassahowitzka Wilderness area. I mean, that's
20 the whole purpose of that rule, is to put a cap on it;
21 however, there is plenty of room left for other
22 facilities.

23 It was determined at the hearing that another
24 company, competing company, Florida Rock, could build
25 an identical facility at their present location and

1 still have not consumed all of the increments. The
2 problem is -- there is a third one -- Florida Mining,
3 Intervenor that you'll hear from later today, that
4 lines up -- they are in between Florida Crushed Stone
5 and the wilderness area. So it's going to be harder
6 for them to have any leeway. They cannot build an
7 identical facility; however, they can build other
8 facilities. I mean, it's not a total restriction on
9 their growth at that place, at that location. They
10 could build -- in fact, we calculated they could build
11 a cement plant there. What they can't do is build
12 one -- an identical cogeneration facility. They could
13 build a cogeneration facility with different pollution
14 parameters coming out of the stack, different emission
15 standards, lower emission standards, or some other --
16 or, they could locate it at a different place. They
17 could build an identical one at some other location.

18 It's just that at their location where they have
19 a present cement plant they are going to be restricted
20 in what they can do there, but it's not a total
21 restriction.

22 MR. FIRESTONE: Based on a hundred percent
23 increment, with this being approved, what would the
24 balance, percentagewise, be available to the county?

25 MR. BOTTCHE: Well, I wouldn't say it's for the

1 county. In this particular area, in the one area
2 where it's the most stringent, or where it has the
3 worst impact, I think the total consumption there is
4 a little more than half when you take into account
5 that Florida Crushed Stone is consuming 48 percent,
6 and there is an existing facility there that's
7 consuming a small amount of it, and I don't have the
8 figures right here in front of me, but there is about
9 40 percent of it left.

10 MR. FIRESTONE: That would be after approval or
11 at this time?

12 MR. BOTTCHEr: No, after approval. At this time
13 there is about 90 percent of it available at that one
14 particular spot.

15 MR. FIRESTONE: What's the parameters of that
16 spot? What is the spot --

17 MR. BOTTCHEr: It's the Chassahowitzka -- I can't
18 even say it now -- the wilderness area, Chassahowitzka
19 Wilderness area.

20 MR. FIRESTONE: Do you know what the square
21 mileage is of that?

22 MR. BOTTCHEr: Well, the actual spot, itself,
23 where these plumes come down is very small, in the
24 neighborhood of probably five square kilometers. It's
25 a very small area with this high spot as we call it

1 where the high concentrations actually hit and become
2 the highest. That's a very small area.

3 MR. FIRESTONE: So, something that was 10 kilo-
4 meters away would not be affected by this?

5 MR. BOTTCHEER: It may or may not be, depending on
6 exactly where it's located and how the meteorological
7 conditions move the pollution of that source over to
8 the wilderness area.

9 GOVERNOR GRAHAM: Are there any other questions?
10 Let me ask, do you -- what jurisdiction do you retain
11 after a project is approved if, for instance, in five
12 years new technology is developed or other circumstances
13 would appear to make it appropriate to increase the
14 requirements for emission control from a previously
15 approved project, are you able to do so?

16 MR. BOTTCHEER: Yes, we have that statutory
17 authority. Of course, it's not easy to impose new
18 requirements on an existing facility, but it can be
19 done and we have done it. We have required a lot of
20 facilities in Florida to retrofit with pollution
21 control, and particularly, if some innovative tech-
22 nology comes out -- and one thing we see on the
23 horizon are dry scrubbers -- we may see that they are
24 going to be imposed on all existing facilities, and
25 we have the legal authority to do that.

1 GOVERNOR GRAHAM: Is the difficulty an astronomic
2 difficulty or a legal difficulty or pragmatic, or --

3 MR. BOTTCHEER: It's a combination, but it can be
4 done, and it has been done.

5 GOVERNOR GRAHAM: Are there any further questions?
6 Thank you.

7 MR. CURTIN: Governor, members of the Cabinet,
8 my name is Larry Curtin and I'm here once again on
9 behalf of Florida Crushed Stone Company who is the
10 Applicant. What I'd like to do is take a few minutes
11 to explain to you in a little more detail than we were
12 able to last time what we're talking about, and in
13 doing that, I think I can make an effort to address
14 some of the questions that you've posed so far.

15 Some of the exhibits that we're going to be
16 showing you, and we've got several of them, are actual
17 exhibits that were admitted into evidence at the
18 hearing, and since, because of the print on some of
19 them, you'd need a pair of binoculars to see them,
20 we've made up a little booklet here for each of you
21 that contains a picture of these, that, if we could
22 get that distributed, it would be helpful, and we'll
23 go through it from this chart over here.

24 I think everybody understands what we're talking
25 about here today, and that is a cogeneration project

1 which has received qualification from the Federal
2 Energy Regulatory Commission. The qualification was
3 received under federal legislation which allows
4 industrial facilities to engage in this type of
5 activity and to sell the excess power that's so
6 produced into the utility power grid. The project,
7 essentially, consists of a 600,000 ton per year cement
8 plant and a 125 megawatt generating facility which will
9 be located at the site of an existing limerock
10 operation.

11 To our knowledge, this is the first type project
12 like this of this kind in the United States, and
13 because of that we didn't have any plans to go by when
14 this project was conceived.

15 Essentially what happened was that Mr. Gregg, who
16 is the president of Florida Crushed Stone, got the
17 idea to do this and went to engineering firms and
18 boiler manufacturers, and basically cajoled them to
19 take a look at it. They told him at first that it
20 couldn't be done, and through basically his efforts
21 he's been able to come up with now a project that all
22 the engineers that we've talked to say will work and
23 will work very well, and will also be extremely
24 innovative. The thing was basically designed from
25 scratch and because of that we've had some difficulties

1 with it, but I think also that the theory behind the
2 design of the project is very important, and that was
3 to integrate this project into the existing site and
4 to make the maximum use of existing materials which
5 were available, most of which otherwise would be wasted,
6 so that you could produce a product while at the same
7 time controlling the pollutants that would otherwise
8 might be discharged, and that product would be useful,
9 rather than simply putting a scrubber on the tail end
10 of the facility, controlling the emissions and
11 producing an additional waste material that would have
12 to be disposed of.

13 If I could move over to this exhibit here, this
14 is the actual exhibit from the hearing. It's an
15 artist's rendition of the power plant facility, and
16 the cement plant. It should be the first page in your
17 booklet, and you have a blown-down picture of it,
18 which was admitted into evidence. If we could start
19 over here at the first structure on the left-hand side,
20 that is the stack, which is where the emissions from
21 the total facility will be discharged to the atmos-
22 phere. Immediately to the right of the stack is kind
23 of a rectangular box, that's an air pollution control
24 device. It's called a bag house, and the purpose of
25 that is to control emissions of particulate matter.

1 That will also assist us in controlling sulfur dioxide,
2 since a small percentage of the sulfur dioxide emissions
3 will be trapped in there.

4 The next structure is the cement plant, which will
5 be used, obviously, to prepare the cement. If we move
6 over here to this rectangular building here, sort of
7 in the foreground, is an office, and the building
8 behind that is the turbine generator. Right behind
9 that is the switch yard, which is where the electricity
10 goes, and it will come out the transmission line that
11 runs along the front of the picture.

12 The building which is a little taller, right
13 behind the turbine generator, is the boiler, and that's
14 where the combustion will take place, and that will
15 produce the steam to drive this equipment here to make
16 the electricity.

17 The boiler will be coal-fired, as stated. The
18 flue gases from the boiler which would normally -- if
19 you had just a single power plant, you'd have a stack
20 alongside of it. It would go right out into the
21 atmosphere here. This material is going to go through
22 these pipes into the cement plant where part of the
23 gas stream is going to be diverted into the kiln which
24 is used for production of cement. There will be a
25 removal of sulfur dioxide that will be achieved in the

1 kiln.

2 In addition, this flue gas is going to be used to
3 dry the waste material that's already present on the
4 site. That material is depicted on the far left of the
5 picture. What that is is a waste fine material from
6 limerock production.

7 What is happening currently at the site is that
8 they are producing an aggregate material which has to
9 be washed. Approximately 50 percent of that material,
10 as I understand it, is wasted now. It goes out into
11 the settling area, along with the water that's used to
12 wash it, and it goes through a series of clarification
13 ponds and it sits there. It's wet and it's something
14 that can be used in the production of cement, and what
15 Mr. Gregg is proposing to do with this project, is to
16 take this material out of those settling areas, bring
17 it into the cement plant, and use the waste heat from
18 the power plant to dry it so that it will be useful.
19 In other words, he's saving some BTUs, we think.

20 Some of the other features of the project, as far
21 as environmental innovations or features, of course,
22 with any cogeneration project you have a sequential use
23 of energy, and that is an energy savings. The two
24 facilities will basically exchange energy, and that is
25 the reason why it's been a qualified facility under

1 FERC rules.

2 In addition there are a number of water use
3 features that we think are significant, not the least
4 of which is that there will be no discharge from this
5 facility to any surface waters of the state of Florida
6 or the United States. We will not disturb any wetlands
7 that are in the area. We also have what we refer to
8 as a double use of water, which we think is going to
9 reduce the consumption of water on the site. This
10 will occur through the use of the water in the power
11 plant for condenser cooling.

12 As I mentioned before, we have a series of ponds
13 now that takes water from the aggregate operation and
14 runs it through to clarify it. The last pond is a
15 clear water pond. That will be the cooling pond for
16 the power plant, the waters necessary to cool the
17 condenser. That water will go through the power plant,
18 perform the cooling function and then it will be
19 routed back into the cooling pond, but a part of the
20 water is going to be diverted from that cooling
21 stream into the aggregate plant for use in washing so
22 that we're going to reduce the consumption there.

23 In addition, the drying of the waste flue -- the
24 drying of the wet material with the waste flue gas,
25 we're also going to utilize the fly ash and bottom ash

1 byproducts, which are byproducts from the combustion of
2 coal in the cement pumps. That's going to eliminate
3 for us the need to landfill or otherwise dispose of
4 this material.

5 To the extent that it's not used, it will be
6 stored on site in silos which will be enclosed.

7 Another feature which we think is very significant
8 relates to the elimination of one of the primary
9 particulate waste streams that would occur otherwise
10 in the cement plant. What is going to happen there
11 is that we're going to take from the cement plant,
12 from the process that's known as the "clinker cooler",
13 as it is the gas which would otherwise be discharged to
14 the atmosphere and would contain particulate, that is
15 going to go back to the power plant, and that will be
16 used to help in the combustion process as pre-heated
17 air. So, the second largest particulate matter emis-
18 sion source from the cement plant is going to be
19 eliminated.

20 Finally, I think Mr. Bottcher indicated to you
21 that this facility will have the lowest emission rate
22 in the state of Florida for any coal-fired power
23 plant, without a scrubber. That is an accurate
24 statement. That will be achieved through several
25 processes; number one, we intend to use low sulfur

1 fuel; number two, along with the fuel Mr. Gregg has
2 decided to inject into the combustion process a lime-
3 rock material which will be crushed with the coal.
4 That will result in a chemical reaction as the coal
5 is being burned which will remove a percentage of the
6 potential sulfur dioxide emissions actually right in
7 the boiler. This is a process which has not been
8 demonstrated in the United States on a full scale
9 basis. It has been studied. We've looked at all the
10 plans that we could get to do this process on a pilot
11 scale. We've talked to the engineers and the boiler
12 designers, and they all say it will work.

13 We are guaranteeing a 25 percent removal from
14 this process, although there are indications that it
15 could work much better. There is a facility in
16 Germany that uses this on a full scale basis, and when
17 Mr. Gregg found out about the process, he went over to
18 Germany and looked at this process on a full scale
19 operation and talked to the people.

20 We're pretty confident that it's going to work.
21 So, we have in the boiler then the 25 percent removal.
22 We also have in the cogeneration mode, that gas stream
23 that would otherwise be discharged, going through the
24 cement plant, through the kiln, and achieving an
25 additional removal, and then there is a slight removal

1 into the bag house, and the net result is that, coming
2 out the end of the stack you're going to have the
3 lowest emission rate in the state.

4 Again, we think the project is quite innovative.

5 Now, there has been a lot of talk in the case
6 about modeling and the consumption of increment in the
7 Class I area, and what we've got next for you is a
8 couple of exhibits that we'd like to just quickly show
9 you to kind of give some perspective on all of the
10 things that we've done here and try and help to clarify
11 exactly what's going on in this case.

12 Again, this map is our Exhibit No. 34. It's in
13 the book, and it was presented as an exhibit at the
14 hearing and received into evidence. What it consists
15 of is a map that was prepared by Dr. Koogler, our air
16 modeling expert, and it contains, by numbers, all the
17 sources that are impacting increment, and those that
18 have to be factored into the modeling exercise that are
19 in the area.

20 This area up here is the Class I area. That's
21 the Chassahowitzka Wildlife Refuge, and it's in gray.
22 You can see the boundaries. There are little numbers
23 up in the vicinity of Brooksville on the exhibit, and
24 I think you can make out the numbers in there. I know
25 you can.

1 Source No. 1, which is northwest of Brooksville,
2 is the Florida Crushed Stone Company's site. These
3 other sites around that are marked on the legend and
4 numbered as to what they are. Source No. 8 on that
5 map, which is northwest, again, of Florida Crushed
6 Stone, is the Florida Mining site. That's the site
7 where they have an existing power plant -- or, excuse
8 me, existing cement plant.

9 Source No. 2, which is to the right of Florida
10 Mining is Adams Asphalt, which is an increment consum-
11 ing source that exists in the area, and that source
12 is important because Florida Rock's property is
13 slightly to the north of that. Florida Rock is not
14 marked on this map because it was not a site that was
15 in existence, but it would be located just north of
16 the No. 2.

17 All those things have to go into the modeling
18 exercise.

19 Now, what we also did at the hearing, in
20 conjunction with this map and with the modeling, this,
21 again, is how Exhibit 34-A, included in your package,
22 this was actually prepared at the hearing by Dr.
23 Koogler. He's the air modeling expert. Unfortunately,
24 he's a better modeler than he is an artist, but I think
25 for purposes of the perspective and to understand the

1 modeling exercise and the impact, that this is very
2 helpful.

3 What Dr. Koogler did, and this is not based on
4 actual modeling, this is just simply an explanation of
5 what it is, he drew the box up here on the left which
6 is the Class I area. It's hypothetically the
7 Chassahowstzka Class I area. What he did then was
8 depict by these Xs along the boundary, what would be
9 known as receptor points, and those are the things
10 that go into the modeling. When you model, our impacts
11 are shown at a receptor point, and those are based
12 along the boundary of the area.

13 Now, the modeling exercise, essentially you have
14 to know certain things. First of all you take the
15 meteorological information. That information is our
16 meteorological data, 24 hours a day for a period of
17 five consecutive years of available data so you have
18 all that mass of information. That's why you have to
19 use a computer.

20 In addition to the meteorological information,
21 which includes wind speed, velocity, temperature,
22 et cetera, you have to have the exact location of the
23 source. You have to know that to put it in the model.
24 You've got to know how big the source is. You have to
25 know the fuel type and the combustion characteristics

1 so you can tell what's to be coming out of the stack in
2 order to put it in the model. The stack size, in terms
3 of height, has to be known, as well as the diameter of
4 the stack, because that affects the existing velocity of
5 the gas. A smaller diameter would push the gas up a
6 little bit higher.

7 You have to know the temperature of the gas as
8 well. All of these things are taken into account and
9 put in the model, and what Dr. Koogler assumes is that
10 you had two hypothetical sources located exactly the
11 same distance from the Class I area, exactly the same
12 size, and that you had a wind direction coming out of
13 the southeast in this fashion. Then you crank this
14 information into the model.

15 What you're going to come out with is a series
16 of impacts during all of these periods of time, all of
17 these 24-hour periods of time during the five years.
18 You throw out the highest, because the Class I increment
19 is allowed to be exceeded once per year, so you're
20 looking at the second highest concentration. That is
21 your increment impact, and for regulatory purposes
22 that's what you have to meet.

23 What the computer does and what you end up with
24 is a series of bell-shaped curves which depict the
25 impacts of these facilities. If you look down here,

1 this curve furthest to the left is the south. That
2 will be Source No. 1's impact. That's depicted by
3 basically a bell-shaped curve. The peak of the curve
4 is the highest impact at the source on any receptor
5 in the Class I area.

6 Now, the reason this thing is bell shaped is
7 because the plume, although it's depicted as a straight
8 line here, the maximum impact is the centerline of the
9 plume, but what happens is -- when it comes off, is
10 that it spreads. So you've got a situation where you
11 have a spreading plume with a maximum in the center.

12 Now, this line here, the centerline, X, is the
13 maximum impact of this source in a single mode. That
14 is depicted by Receptor No. 2, if you were going to
15 count from the bottom. These impacts will run along
16 and the dual curves depict the impacts of both these
17 sources.

18 So, for Source No. 1 the impact on the second
19 receptor is the greatest; Source No. 2, the impact on
20 the last receptor is the greatest, and then you have
21 to put these together and determine the combined
22 impact so you can determine what the increment
23 consumption is. You draw the curves and you get the
24 relative contributions of the different sources at the
25 different receptors, again, recalling that, because

1 the plume spreads out, there is going to be an over-
2 lap, but you can notice that the maximum impact for
3 Source No. 1 occurs here, and the impact of Source
4 No. 2 on that receptor approaches zero.

5 Now, what you end up with is a curve that's going
6 to look like this because, again, the two identical
7 sources. You start down at the bottom here, and there
8 is zero impact from any source. You run up along the
9 curve and you get to the peak of the curve for Source
10 No. 1. You're going to go beyond that, and that is
11 going to be the maximum impact. That is the combined
12 contribution of Source No. 1 and Source No. 2 at this
13 point right here, and it's Receptor No. 3 in the
14 circle.

15 Now, how you get that, essentially, is you can
16 see that the curve for Source No. 2 is overlapping
17 here, and it's starting to rise along Receptor No. 3.
18 So you take the contribution from the bottom of the
19 curve to this point, and then you add that to this, and
20 you get it right here, then you go down in the middle,
21 come back up, up here, and then go down and approach
22 zero, but again, if you look, the contribution of
23 Source No. 1 on this receptor up here which is closest
24 to the maximum impact for Source No. 2 is approaching
25 zero.

1 Again, we think that's of significance in this
2 case. This last exhibit here, which I'm sure you can't
3 see, but which is also in your package, was our
4 Exhibit No. 41. It was introduced. It was presented
5 by us in order to attempt to respond to the arguments
6 that had been made in the case concerning the blocking
7 out effects that this particular plant would have on
8 other sources that might want to locate adjacent to us
9 or near us.

10 What we did for the top line here is, these one,
11 two, three, four columns, was to look at our facility,
12 Florida Crushed Stone at 965 pounds an hour, which is
13 the pounds that we're requesting. We placed at the
14 Florida Mining site a hypothetical cogeneration
15 facility that had exactly the same configuration,
16 stack parameters and all that information, and we
17 modeled that along with Adams Asphalt, which consumes
18 increment, and all other sources which consume incre-
19 ment. The purpose of this was to show, basically,
20 the relative contributions of Florida Crushed Stone
21 to the increment consumption, and also the fact that
22 you can't simply take this kind of information, look
23 for the maximum impact of the two sources and add them
24 together. It doesn't come out. You can see that the
25 maximum impact for Florida Mining is 4.4 micrograms.

1 The maximum impact of Florida Crushed Stone is 2.2,
2 but nowhere on the chart does it show 6.6. That just
3 doesn't come in because different meteorological
4 conditions produce different results so that, if you
5 look, in each case Florida Crushed Stone's impact is
6 less than that of Florida Mining.

7 Again, that relates to the curve information that
8 I showed you before and is also a function of geo-
9 graphy. The two sources are not located the same
10 distance from the Class I area. We're further away.
11 They're closer. They're going to, because of that,
12 produce a curve which is going to be steeper and there
13 is going to be less concentration and contribution from
14 us, and I'll get to that in a minute, but, signifi-
15 cantly, when you look at the highest impact of Florida
16 Mining on the increment, which is the 4.4, our
17 contribution to that is only .7. Similarly, if you
18 drop down to the bottom of the chart, that shows a
19 hypothetical -- that shows Florida Crushed Stone at
20 965 pounds an hour, and, although that says "FMM",
21 it's supposed to be Florida Rock Industries, hypo-
22 thetically, at 965 pounds an hour.

23 Their worst case occurred in the year 1975 on the
24 meteorological information, at day 288. Our contri-
25 bution to the increment consumption was .4 micrograms.

1 Their contribution was 3.6. The other contributions
2 were 3 and 1 for a total of 4.4, and obviously they can
3 put their facility in the same as we can.

4 The reason is, again, that they are located back
5 beyond Florida Mining and Materials.

6 Now, if you'll look at this information, you can
7 see that Florida Crushed Stone's contribution to
8 increment is less than the maximum predicted increment
9 consumption. When you take these other facilities away,
10 you take Florida Mining away, again, that is a function
11 of geographic location. The reason is that, if you
12 look on this map, the wind condition that is most
13 severe for Florida Mining and Materials will occur
14 when the wind is blowing from the east. When that
15 happens, they are going to go straight over to the
16 Class I area. If you line that up with our facility,
17 number one, our maximum impact goes under the Class I
18 area. So what you're getting from us is the contri-
19 bution from the spread of the plume just as I showed
20 you on those curves. It's not as high as the maximum
21 prediction.

22 When the wind direction blows from the southeast,
23 which is when our maximum impact occurs, their
24 configuration is going to have them going beyond the
25 top of the Class I area. So I guess the point of all

1 this is that it's not as simple as it looks to simply
2 say, "If your impact is 3.1, that means there is 1.9
3 micrograms left for anybody else." If you change any
4 of the variables in the equation, in the modeling
5 information, and that includes the installation of a
6 scrubber, you're going to modify the inputs and the
7 likelihood is that the worst case conditions are going
8 to occur on days that are different than the days that
9 I'm showing you up here.

10 We don't think that we're particularly contribu-
11 ting to any kind of a problem here and I guess that's
12 the significant point.

13 In addition to all that, when you look at the
14 project, all the innovative features and the limerock
15 injection technology that is being pioneered here, I
16 think you might say that, down the road, in response
17 to the question that you asked, Governor, that Mr.
18 Gregg might be pioneering the technology that takes
19 care of whatever problems may arise, and he's doing
20 that in a way that's going to allow him to avoid
21 producing additional waste product, which we think is
22 very significant.

23 The .74, the lowest emission rate in the state,
24 I think is significant, and again, emphasizing that
25 there are facilities in the state that have been

1 permitted that will have a scrubber, which is a form
2 of flue gas desulfurization, those facilities had
3 emission limitations that are higher than ours. Mr.
4 Gregg has chosen to try to come in and be the lowest,
5 notwithstanding the fact that this is cogeneration,
6 and that perhaps, based on cogeneration, he could have
7 asked for a break.

8 We think, again, he's the first one in the barrel.
9 Obviously, it's been a long process. We -- he's
10 broken the ground, designed the facility and engineered
11 it, and in that sense he's probably going to help some
12 people if there are any that are going to come along
13 after him.

14 A lot of the innovative features that you're
15 seeing on this project may not be present if a scrubber
16 technology is selected here. The reason is that all
17 these fits don't exactly occur in that configuration.
18 We think that this is something that ought to be
19 encouraged. We think that Mr. Gregg ought not to be
20 penalized because he's the first one to come up with
21 this kind of an innovative idea. We feel as though
22 we've met all the regulatory requirements. We think
23 that, when you study this information, you can see that
24 the situation is very complicated, but that we did
25 present the testimony to back up what we have said, and

1 we believe that we're entitled to have the project
2 approved.

3 GOVERNOR GRAHAM: Questions?

4 MR. CURTIN: Thank you.

5 GOVERNOR GRAHAM: Is there anyone else to be
6 heard on behalf of the Applicant? If not, on behalf of
7 the Intervenors?

8 MR. LAWSON: Governor and members of the Cabinet,
9 I'm John Lawson. I'm a lawyer from Tampa. I was here
10 two weeks ago. I represent Florida Mining and
11 Materials. We have, first, for you a county commis-
12 sioner from Hernando County, Mr. Greg Copeland. I would
13 ask him to come forward.

14 MR. COPELAND: Good afternoon members of the
15 Cabinet. I have prepared some remarks and, as I had
16 two weeks ago -- and, you know, each time we come up
17 to this proceeding we get more information. I'm not
18 sure that all the information that we get is necessar-
19 ily -- the concern is shared in terms of the future of
20 our state, the future of the community in which I live,
21 Hernando County, and the economic implications that this
22 plant has for Hernando County.

23 You just saw an artist's rendering of the plant.
24 Very pretty. Mr. Firestone asked the question about
25 the allegation of a limitation on the future economic

1 activity in the county. I am one who makes that
2 allegation. It is because I'd like to see three
3 pretty pictures before this Board and three cogener-
4 ators in Hernando County on our tax rolls, employing
5 our people, that I come before you today.

6 We have heard about the innovative technology
7 that is being employed, but, gentlemen, I ask you to
8 consider, does the innovative technology provide us
9 with the cleanest plant that modern technology can
10 provide us with? And I think, if you remember the
11 submissions from Florida Mining at the last meeting,
12 clearly, it does not. I do not recall Florida Crushed
13 Stone repudiating the information contained and drawn
14 from one of their own submissions at the hearing, that
15 48 percent of the available increment would be used.

16 One of the other things we haven't heard, when
17 Mr. Curtin tells this Board that it is the lowest
18 emitting power plant or would become the lowest
19 emitting power plant of S_{O_2} emissions in the state, he
20 doesn't tell you about the location of that Class I
21 area at the same time, how many power plants do we
22 have with the relative impact that this proposal brings,
23 or that future proposals would bring? That's the
24 other point I want to make, is about the future,
25 gentlemen, going back again to the economic growth of

1 the county.

2 The future is something that's difficult to see,
3 but in the hearing officer's report, even though I
4 disagree with much that she had said, she did make
5 some salient points regarding economies of the cement
6 business. She indicates that more than half of the
7 cost of producing cement is the production or purchase,
8 rather, of electricity. Well, obviously, if that is
9 the case, there is going to be a market requirement
10 then placed upon the people that are in that business
11 in Hernando County, and we have three people that are
12 in that business in a big way, that a future need for
13 increment to build power plants will be required.
14 There is no mystery about that part of our future, but
15 I for one am not willing to see, and I don't think this
16 Board is willing to see the future of any community
17 mortgaged to one company or mortgaged to one type of
18 industry.

19 The strength of Florida in the future is going to
20 be in broadening the base of our economic activity,
21 and in Hernando County, if we are solely dependent on
22 the limerock industry that will not produce the
23 reduction in unemployment that I'd like to see.

24 Gentlemen, we have to be thinking about the
25 broad public interests today. We have to be about that

1 business. And Florida Statutes and the intent of the --
2 as it's stated in the statute regarding power plant
3 siting, you are called upon to balance those broader
4 public interests. In the statute it talks about the
5 premises on which your actions should be based. It
6 says, "To assure the citizens of the state of Florida
7 that operational safeguards are technically sufficient
8 for their welfare and protection." It says, "To
9 effect a reasonable balance between the need for the
10 facility and the environmental impact resulting from
11 the construction and operation of the facility,
12 including air and water quality, fish and wildlife,
13 and water resources and other natural resources of the
14 state." It also says, "To provide abundant low cost
15 electrical energy."

16 Well, gentlemen, if we are in fact to meet -- or,
17 if you are in fact -- I was thinking I was with you
18 on that one -- but, if you -- the burden is on you,
19 gentlemen, to meet that test in the statute. Then
20 there is no advantage to creating a power plant or
21 allowing a power plant to be certified without the most
22 modern technology. To strike such a balance in favor
23 of the public interest, the broader public interest
24 with a scrubber, as I believe it's envisioned by the
25 Power Plant Siting Act, would protect and enhance the

1 economic welfare of the people of Hernando County, in
2 particular, and the state as a whole. It would conserve
3 and protect the vital natural resources of the state,
4 as our constitution additionally requires us to do, that
5 resource being our air in this case, and would provide
6 the potential for additional cogeneration facilities in
7 the area, and I think that we have to look at what
8 additional cogeneration facilities mean in terms of our
9 electrical capacity, electrical generating capacity.

10 Obviously, it's a great concept. Rate payers
11 are going to get the benefits through reduced power
12 bills, bills that they won't be paying for public
13 utilities already on stream to develop power plants, but
14 at the same time, if we allocate all the resource to
15 this one company, or 50 percent, approaching 50 percent,
16 will we be meeting the full maximum potential of
17 cogeneration in Hernando County as one area where it will
18 work quite well because of the existing natural
19 resources, being the limerock there, that are available
20 for the manufacturing portion of that concept.

21 The other point that we need to concern ourselves
22 with is the economic benefits that doesn't accrue
23 necessarily to either Florida Crushed Stone or Florida
24 Mining or Florida Rock, but the economic benefits that
25 derive to the people that will work for these firms.

1 They will earn their living by working for those firms,
2 and that point was driven home by Florida Crushed Stone.

3 This matter has not been without controversy in
4 the county. They took out full-page ads in December of
5 1982, telling the people that they would have the gravy
6 for their steak and the icing for their cake. They
7 told them that they'd have 277 jobs in the first year of
8 operation, new jobs for the community. They told them
9 that we would have \$5.2 million worth of new economic
10 impact in the community. Well, gentlemen, I submit
11 that I'd like to see those benefits multiplied by three,
12 and I think with scrubber technology placed on that
13 plant, where we're putting the known technology, the
14 proven technology to work to reduce the S₀2 emissions
15 in this state, we will have the opportunity to see
16 more people employed. Imagine, not 277 jobs being
17 created in Hernando County, where the unemployment rate
18 now is over 10 percent, and has been as high as 15 in
19 recent memory, but imagine the creation of perhaps 800
20 jobs. Imagine the creation of \$15.6 million, to
21 multiply their figures by three, and if we reduce the
22 emissions level, gentlemen, we'll have the opportunity
23 not only for the limerock industry to take advantage
24 of that very valuable state resource, our air, but we'll
25 have some left over for other industries, and we might

1 even have a little bit left over to breathe.

2 The other point I want to make in terms of the
3 Class I area -- and I don't think anyone has mentioned
4 it so far, either today or at a previous meeting, to
5 you, is that a Class I area has an air increment
6 allocation of 5 micrograms, compared to a Class II area
7 with 90. In Hernando County, because of the Class I
8 area, our air increments are therefore enhanced in terms
9 of the economic value that they represent. To not
10 recognize the distinctions that exist within this
11 application from previous applications that have come
12 before you would be to ignore that situation that exists
13 in Hernando County where those increments are of
14 significant economic value, and believe me, gentlemen,
15 we're talking about something that's going to go into
16 the future for 30 years, according to the application,
17 30 years on this plant.

18 What would Florida Crushed Stone have thought had,
19 30 years ago, someone had come before them, before this
20 body with the people that were sitting here 30 years
21 ago and taken as much increment as they propose to take?
22 They say, "The circumstances vary with the modeling.
23 It's complicated," that, "it's difficult to understand
24 and predict," but I think the one thing that we can say
25 with certainty is that a use of low sulfur coal and the

1 use of a scrubber would provide the balance in the
2 public interest for 30 years down the road and the
3 intervening time.

4 You know, the last time, Governor, we were here
5 you made quite a point with the folks from Occidental
6 Petroleum about that slime pit that they were trying to
7 keep and not mend, shall we say. I think if we can
8 visualize the use of our air in the same way that we
9 visualize and know the use -- the effects that certain
10 uses of our land have, we'd have more respect for the
11 air. It's different than water. It's different than
12 land. You can't see it, but it's meetings like this
13 that bring home the value of it to the public, that
14 bring home the value of not having enough of it to
15 create new jobs, to create additional industries and,
16 indeed, that's all I'm asking you to do today, and we've
17 been told, and in fact it's in the hearing officer's
18 report, that the difference between what Florida
19 Crushed Stone is proposing to you, as their best -- as
20 their definition of Best Available Technology, and a
21 scrubber, that the difference between those two, in the
22 hearing officer's own words, in terms of the cost, the
23 difference, to quote her, is "insignificant", and I
24 think, gentlemen, the increment is insignificant, if
25 you can think of that increment in terms of jobs, in

1 terms of economic growth, in terms of what our future
2 will or won't be.

3 I think that is the value and that is the balance
4 that you're going to have to strike on this state's
5 irreplaceable natural resource. Thank you.

6 GOVERNOR GRAHAM: Mr. Turlington.

7 MR. TURLINGTON: How do you answer the director of
8 the Department of Environmental Regulation when he says
9 that we shouldn't use the scrubbers beyond a certain
10 point, because beyond a certain point, well, we're going
11 to have more environmental adverse consequences than we
12 would if we just didn't use the scrubbers? Now, I
13 gather that we could use scrubbers, which is what you're
14 recommending, but if we do, then we've got another
15 environmental consequence.

16 MR. COPELAND: That's true, there is a conse-
17 quence, but it's not true that that consequence can't
18 be dealt with with the technology that we have. It's
19 my understanding that, in a case that came before this
20 Board, in a publicly-regulated utility, Orlando Utility,
21 that in fact scrubbers were required of that plant that
22 would be coming on line. They are not all that far
23 from Brooksville. They are in the state of Florida,
24 obviously, and I think the technology exists to protect
25 our water, and I certainly have an interest in that, as

1 you do, and certainly --

2 MR. TURLINGTON: Isn't the question of a scrubber
3 or not a scrubber one that was really the Department's
4 decision in terms of how they -- what they consider to
5 be the interest of the state?

6 MR. COPELAND: Yeah, well, let me -- yeah, well,
7 that's interesting. I'm glad you asked that,
8 Commissioner, because in reading a report that Mrs.
9 Tschinkel delivered at the University of Florida in
10 March of 1983, to an interdisciplinary group working on
11 this very problem of acid rain and S₀2 emissions and all
12 the ramifications that it will have for the state, she
13 recommended at that time that the state of Florida keep
14 S₀2 emissions at 1982 levels, that we reduce our S₀2
15 emissions in the state of Florida. Why? Because of
16 the national direction that is being charted that some
17 reduction will more than likely be mandated in the
18 emissions of S₀2 around this nation, and that the cost
19 of retrofitting our plants in Florida to meet those
20 standards would be tremendous, and in this particular
21 instance, discussion about retrofitting a plant that is
22 being newly constructed at this time, with the national
23 legislature talking about reducing S₀2 emissions is, to
24 me, not the best route to go.

25 I think that, if the Department had paid more

1 attention, perhaps, to the March -- of course, this
2 was in March of 1983, and the decisions regarding this
3 plant, I think, were initiated before that time --
4 perhaps it would have been a different decision. I
5 think we're still faced with the reality that the very
6 best and the most insignificant, in terms of the cost
7 difference, use or technology to clean our air, to keep
8 our air clean, rather, was not used, and we should,
9 when you're talking about 965 pounds of S₀2 being placed
10 into the atmosphere, versus the less than 200 pounds
11 that could be emitted, if we go with the scrubbers, if
12 you gentlemen will let us go with scrubbers, let us
13 have those scrubbers --

14 MR. TURLINGTON: But the Department says that
15 we're better, at this point, not to use the scrubbers
16 because there are some environmentally adverse aspects
17 of using the scrubbers?

18 MR. COPELAND: Perhaps I need to go sit down and
19 you need to ask them why scrubbers are okay in Orlando
20 and they are not okay in Brooksville, and why environ-
21 mental aspects are different in one area than they are
22 the other.

23 The other point that I'd make is, as things
24 evolve, unfortunately some things get out in front of
25 us, and we're left with the -- you know, the prior

1 actions, and I think that, in this case, perhaps, Mrs.
2 Tschinkel's recommendation at the University of Florida,
3 being a later recommendation, should carry a little more
4 weight.

5 MR. TURLINGTON: Well, if I understand this right,
6 if, for example -- and you say there is really no great
7 economic difference between the use of scrubbers or not,
8 so obviously the Applicant probably could have not been
9 economically concerned about whether to use scrubbers
10 or not. It was an environmental decision which the
11 Department said that they would rather have settled on
12 not using scrubbers, and keep -- and meeting the quality
13 standards.

14 MR. COPELAND: That's one point, and it's a point
15 that I was trying to make at the zoning hearing that we
16 had on this very matter, Commissioner. I asked Mr.
17 Koogler who is out here today, who is their air quality
18 expert, how much of this emission you're -- at that
19 time they were proposing to put 1500 pounds of S₀2 an
20 hour in the air. So I asked him, "How much of that can
21 you take out with a scrubber?" And he said, in a
22 rather soft voice, "90 percent," and when I asked him
23 to state it again, he repeated his answer and the crowd,
24 you know, sighed. They couldn't believe it. 90 percent
25 of the S₀2 could be removed. When Mr. Gregg came up to

1 testify I asked him how much or why is it you don't want
2 to put the scrubbers on. He said, "Well, they cost
3 too much." So I asked him how much they cost, and he
4 said he did not know. He did not know. Mr. Owen with
5 DER answered the question; "\$10 million."

6 At the time he was proposing a \$100 million
7 project. That's ten cents on the dollar.

8 MR. TURLINGTON: I thought you just answered the
9 question, though, that the scrubbers really wouldn't be
10 different economically from the --

11 MR. COPELAND: That's right. That's what I'm
12 trying to say, that it's interesting from the Applicant's
13 standpoint, over time, that they did not in fact look
14 in 1982, in December of 1982, the Applicant -- the
15 president of the company didn't know how much the
16 scrubbers would cost, yet that was his reason for saying
17 he didn't want them.

18 This business of environmental impacts on
19 scrubbers is brand new. It's a little like Jerry
20 Falwell's congregation hearing from the atheists. You
21 know, they are putting pollution in the air, you know,
22 tremendous amounts, 965 pounds an hour, approaching
23 8 million pounds a year, and they're telling you that
24 they're concerned about the environmental impacts. I'm
25 sorry, I don't buy it, and I think that --

1 MR. TURLINGTON: I gather that, based on what the
2 Department said, that they were the ones -- that the
3 Department says that the scrubbers -- well, you know --
4 beyond a point will be more environmentally damaging
5 than the other way. Now, that sounds like that's their

6 MR. COPELAND: I'm 29, and in 29 years I've made
7 some mistakes, and it's difficult sometimes to admit
8 mistakes. Perhaps that's the instance here, that it's
9 difficult to admit mistakes, and being at the point of
10 government in Florida, it is a little more difficult
11 when the spotlight is shining down on you, and I think
12 that perhaps that's it, in all due respect to the
13 people at DER. I think they ought to follow the lead
14 of their secretary, who says we ought to cap emissions
15 of S₀2 at 1982 levels. Those are her words, not mine.

16 Are there any other questions?

17 GOVERNOR GRAHAM: Mr. Turlington, do you have any
18 further questions?

19 MR. TURLINGTON: Not at this time.

20 GOVERNOR GRAHAM: I'd like to ask a question.

21 MR. COPELAND: Yes, Governor.

22 GOVERNOR GRAHAM: Do you currently have pending
23 before the county commission, or to your knowledge,
24 any municipalities, applicants for economic development
25 facilities which would have the effect of using up

1 increment of air quality in the area that's relevant
2 to this decision?

3 MR. COPELAND: No, we do not. We are developing
4 an industrial park at our airport, and we're wanting to
5 develop other industrial areas in the county. We have
6 a very limited amount of industrially-zoned property,
7 and we're just beginning to grow, as you know, I think,
8 from going to Hernando County, in that respect, and
9 with the citrus freeze that's come down, the need for
10 additional industry is just that much greater.

11 GOVERNOR GRAHAM: So, your concerns are essen-
12 tially anticipatory, is that correct?

13 MR. COPELAND: They are, and they are based in
14 part on the hearing officer's findings, that, in order
15 for these other companies to remain in the -- either to
16 remain, in Florida Mining's case, in the cement business,
17 or to venture into that business, that it will be
18 necessary for them to enter onto that same playing field
19 with a cogenerator.

20 GOVERNOR GRAHAM: If there were assurances that
21 jurisdiction for control of air pollution technology
22 continued with the Department of Environmental
23 Regulation, and that that jurisdiction would be exercised
24 at such time as it was necessary in order to allow
25 additional economic development to occur in the area

1 affected by this application, how would that affect your
2 attitude towards this Applicant?

3 MR. COPELAND: Well, now, that's a salient
4 question, indeed, and that's a difficult one for me to
5 answer. I suppose, in the absolute circumstance, where
6 I had to choose between what is proposed and what I'm
7 proposing, and if we had to meet in the middle some-
8 where, and that was the middle ground, I suppose I
9 could support that. The only reservation I have about
10 it, to be honest with you, Governor, members of the
11 Cabinet, is that, with the past performance being what
12 it's been in terms of this application, with the
13 Department, I think we're going to need a little more
14 aggressive follow through on this question of S_O2
15 emissions, and that -- you know, if we had some
16 definite numbers in there and a time frame or something,
17 or some percentages, what type of scrubber would
18 possibly be required, or something fairly specific that
19 we could lay our hands on at a future date without the
20 benefit of quite as many attorneys as we have in the
21 room -- you know, I don't know how many we've got
22 today -- and without all these charts, but something
23 that would allow for the future growth of the county,
24 I guess that would be the best deal that we could -- or,
25 compromise, excuse me, that we could reach, if we

1 cannot today act to actually put in place technology
2 that is proven and is available now, as opposed to going
3 into an experimental or, as they put it, innovative
4 program which the -- the consequence of which we do not
5 know at this time, and they really, in talking to the
6 DER people, myself, Mr. Owen, who is the siting manager,
7 has been very helpful -- I'll compliment him -- he tells
8 me there is three different ways to do this, and, you
9 know, if one of those three ways doesn't work and they
10 come back to the Department and they say, "Well, we
11 can't meet it," what are you going to do? You know,
12 are they going to close the plant down? I don't think
13 so, and if that's going to be where you're at in terms of
14 what will be required, if we could get some of those
15 people to classify that here for you today -- because
16 it's -- that's crucial to me, crucial to me, to have
17 something that we can really implement when that time
18 comes, and that there be a triggering mechanism built
19 into it that is reasonable and available and not some-
20 thing that's going to require either Hernando County
21 or these other corporations or companies that we want
22 to solicit to come in and do legal battle before this
23 Board or with the Department -- again, because obviously
24 it's going to be a handicap to the county in recruiting
25 those kinds of industries if there is not a good

1 triggering mechanism there that can easily be moved into
2 place, and, of course, I think from a cost standpoint,
3 if I was the applicant and we were laboring under that
4 possibility in the future -- of course, they will speak
5 for themselves, but I would think the cost of doing it
6 now would be significantly less, but again, that's some-
7 thing they will address.

8 Thank you for that question. I think that gets to
9 where we might get some relief. Thank you for your
10 time, gentlemen.

11 MR. LAWSON: Governor, the concept that you have
12 stated, if spelled out in what is called a retrofit,
13 that would have some conditions that would be set now,
14 it wouldn't be triggering -- it would not require the
15 lawyers to come to Tallahassee. It would just require
16 the scientists to do the math and then say, "Okay. Now
17 is the time for you to reduce your emissions," that
18 would be acceptable to my client in the sense that it
19 would not appeal an order that contained that condition.

20 Mr. -- Commissioner Turlington, we are talking a
21 scrubber and low sulfur coal, not a scrubber and medium
22 or high sulfur coal. We are not comparing, as DER did
23 and the hearing officer, 3, 4 percent coal with -- you
24 know, with that much sulfur in it. We're asking to
25 take out sulfur that's .75, to 1 percent sulfur coal.

1 So you can see, automatically, you start cutting your
2 sludge by one-fourth to -- I mean, by three times to
3 four times. So, that's the first answer.

4 The second answer, of course, is that the only
5 way you can get down to what we're asking -- and,
6 Governor, in response to your question -- a scrubber
7 without low sulfur coal, really doesn't do very much.
8 It will, as Mr. Bottcher indicated, result in some
9 reduction, 965 pounds an hour, perhaps, down into the
10 range of 800.

11 We are talking about a scrubber and low sulfur
12 coal, Governor. We are talking about 965 pounds an
13 hour, versus 148 pounds an hour, which we are quite
14 willing to recommend that you round that up to 200
15 pounds an hour, because then, Mr. Secretary, the 50-plus
16 percent that they were talking about in relation to the
17 present 10 percent would become only about 20 percent
18 in relation to the present 10 percent.

19 Our next witness is going to be Mr. Bronson, the
20 president, but I want to make a couple or three remarks
21 that may seem stark, but I want to place it in the
22 framework for you.

23 If it weren't for Chassahowitzka, the proposed
24 BACT would be punitive on Florida Crushed Stone, because
25 it would be unnecessary. It is important to understand

1 that. It would be punitive to Florida Crushed Stone to
2 require them to come down to 965 in a Class II area.
3 The window is 18 times higher, but because of
4 Chassahowitzka, 965 is punitive to my client, and it is
5 punitive to my client for the reason that, as Mr.
6 Bottcher said, my client can't replicate the crushed
7 stone facility because of what happens to Chassahowitzka
8 at the point where they intersect on the top line of
9 their Exhibit 41, that's that chart in there.

10 We would automatically be set at 778 or below,
11 and 778, Governor and members of the Cabinet, is zero.

12 It is important to understand Best Available
13 Control Technology does not mean Best Available Control
14 Technology. It means the Best Available Control
15 Technology under the circumstances, and therefore I make
16 the stark statement, except for Chassahowitzka, this
17 would be punitive. We would be on their side yelling
18 and screaming they should not be forced down so far,
19 but because of Chassahowitzka, we are here yelling and
20 screaming they have not gone far enough, and we tell you
21 what that is, that is a 90 percent scrubber operating
22 on low sulfur coal, and that changes 965 pounds to 148
23 pounds.

24 GOVERNOR GRAHAM: I'd like to ask similar
25 questions to the ones I asked the Commissioner. Are

1 you aware of your client or any other economic entities
2 in the area affected by this application who are -- who
3 have imminent plans to pursue activities which would
4 add to the emission level?

5 MR. LAWSON: Governor, my client does not have
6 anything filed, and we do not have anything on the
7 drawing board. Mr. Bronson will explain what they are
8 doing. They have been looking at it, and will be
9 looking at it, and they are certainly -- almost certainly
10 going to be here -- I say almost certainly because I
11 want you to understand that I do not consider the
12 retrofit, where you spell out what will trigger them
13 now -- the rules of the game now. Don't leave us to
14 those vagaries of future regulation, with the lawyers
15 and the monies and the pragmatics and the things you're
16 talking about, Governor.

17 GOVERNOR GRAHAM: Let me ask you a question,
18 first.

19 MR. LAWSON: Yes.

20 GOVERNOR GRAHAM: Are you aware of anyone other
21 than your client who has any plans?

22 MR. LAWSON: Governor, we understand that Florida
23 Rock and General Portland Cement have filed an
24 application, but I have not seen it.

25 GOVERNOR GRAHAM: With DER?

1 MR. LAWSON: Yes, sir, under the Power Plant
2 Siting thing, but I have not seen it and I do not know
3 whether that's true. My client has not -- my client has
4 not anything on the drawing board, is the reason that I
5 say we're almost certain. Then the reason that we're
6 willing to accept the retrofit, it makes us put our
7 position in a fashion where, if we aren't affected and
8 others aren't affected, then they don't have to do it,
9 but we are affected -- in other words, the horror story
10 I'm telling you, if that's true, and it comes true,
11 then spelling out the retrofit now makes sure that the
12 horror story can be cleared up. So that's the reason
13 that we feel that way, and I think you had some other
14 questions, Governor?

15 GOVERNOR GRAHAM: You answered the second question
16 which was, if DER or an appropriate agency retained
17 jurisdiction to acquire further pollution-reduction
18 devices at a future date, where the current level
19 constituted an inhibitant to economic expansion by other
20 entities, would that be satisfactory to you?

21 MR. LAWSON: Yes, sir. With the appropriate
22 safeguards, we would accept that. Is that what we
23 prefer? No, it isn't, but from the point of view of
24 you all, we can't ask you to regulate our competition
25 amongst each other. So, yes, it would be acceptable

1 with appropriate --

2 MR. SMITH: Why -- a lot of the things you're
3 talking about, I just don't find where, by the evidence,
4 any of that was presented to the hearing officer. I
5 wonder why?

6 MR. LAWSON: Well, General, we brought a chart
7 up here the other day that shows how the reduction from
8 965 pounds per hour coming out of the stack -- that's at
9 the stack -- to 148 will reduce what would be a 44
10 percent consumption, or a 48 percent consumption, down
11 in the range of 10 percent, and then, because it had
12 been alleged that that could not be properly inferred
13 and extrapolated from the evidence, we presented to the
14 aides a diagram -- a textual statement last Wednesday
15 that explained how we did that math, and the reason that
16 we have suggested that you not use the strict 148, but
17 that you round up at the 200, is because there is some
18 slight slippage, but the slippage that we're talking
19 about for a margin of error is important to understand.
20 We're talking about the difference between 148 and 200,
21 versus 200 and 965, and the record will support that you
22 can make those calculations and see that that kind of
23 dramatic reduction in emissions will result in that kind
24 of dramatic protection of the increment at
25 Chassehowitzka.

1 GOVERNOR GRAHAM: Mr. Smith, do you have any
2 further questions?

3 MR. SMITH: No.

4 GOVERNOR GRAHAM: Are there any further questions?
5 Thank you, sir.

6 MR. BRONSON: Governor and members of the Cabinet,
7 my name, for the record is Tommy Bronson. I'm the
8 president of Florida Mining and Materials. I'd like to
9 make certain at the conclusion of this hearing and your
10 action, that, above all else, that you understand the
11 consistent position that our company has taken in this
12 matter, and what my greater concerns are than those
13 you've heard about today, and those greater concerns, I
14 believe, legitimately are those concerns that the
15 Cabinet and only the Cabinet should consider, and
16 certainly the record shows that it's only -- it has not
17 been -- these points have not been considered up to
18 this point.

19 First I want to make it clear we support cogen-
20 eration. Mr. Curtin's statement for Florida Crushed
21 Stone in the record very early said, "Cogeneration
22 should be encouraged as the policy in the U.S."

23 We believe that this is an important policy that
24 should be encouraged and enhanced in the state of
25 Florida. My own testimony last July, Volume IV,

1 pages 18 through 26, which, for the sake of time, I
2 won't get into, but it's in the record so that the
3 Attorney General understands, I make statements like,
4 "Cogenerators can produce electricity cheaper," and I
5 go on and describe that. That's in the public interest.
6 There is no argument whatsoever with us about Florida
7 Crushed Stone being a cogenerator. We support that.
8 We think that's in the interest of the state of Florida,
9 its electric customers. We're convinced that we want,
10 as an investor, to be a cogenerator, ourselves. All
11 we're trying to do is be able to be a cogenerator, and
12 ask that this Cabinet, through its environmental
13 policies, with respect to this permit, allows us to
14 compete on the same basis, on the same fair basis, as
15 far as pollution technology is concerned. We simply are
16 here in order that we can be a cogenerator on a
17 comparable basis with Florida Crushed Stone.

18 As I mentioned to you that we met, two weeks ago,
19 whatever it was, the third time I ever met with Mr.
20 Gregg on this particular issue -- and we've talked about
21 it for quite a long time. We think it's good for our
22 industry. We think it's good for our companies. We're
23 certain it holds these possibilities of being good for
24 Florida's electrical customers.

25 Now, what I told him then was, "Brown, I'm going

1 to be for your project. There is no way I'm going to
2 go to the county commissioners and try to frustrate your
3 zoning proposition, because we want to be cogenerators,
4 too, but when you don't use a scrubber, you have
5 foreclosed the possibility of our being a cogenerator
6 on the same basis as you."

7 I don't think personally that that's in the public
8 interest, and I know it's not in our interest, and that's
9 why I'm here, primarily, today. I hope that, regardless
10 of what all has been said about our involvement as an
11 Intervenor in this case, the conversation that's being
12 whispered around the halls of the Capitol, as I under-
13 stand it, that this is simply a matter of a competitor
14 trying to frustrate the legitimate -- or thwart the
15 legitimate business interests of a competitor is
16 absolutely not true, and nothing that I've said, nothing
17 that this company has done would be to the contrary of
18 that, and you know that I wouldn't be here personally --
19 I hope all of you realize, I wouldn't be here personally
20 on that sort of frivolous basis and, above everything
21 else, I hope that is clear after I complete my remarks
22 today.

23 Now, first off, let's get it straight as to
24 whether or not Florida Mining is a potential cogener-
25 ator, or, in this particular instance, a competitor

1 simply trying to frustrate a competitor's business
2 interests. The record shows that at least four years
3 prior to Florida Crushed Stone getting involved in
4 cogeneration, that myself, personally, Fred Corrs, my
5 vice president of cement, we were in Germany looking
6 at the possibility of building a cogenerating facility,
7 looking particularly for smaller coal-fired boilers
8 than what the large public utilities are using, and
9 what's commonly used in this country. I would even say
10 to you that we, at that particular point in time, are
11 more of a potential cogenerator than is Florida
12 Crushed Stone. They have to build both the cement
13 plant and a power plant. We don't have one cement
14 plant. We have two cement plants sitting in Brooks-
15 ville emitting 500,000 cubic feet of waste heat a
16 minute that can be used in cogeneration. All we have
17 to do to become a cogenerator is to build the power
18 plant, which is the lesser difficult and the lesser
19 cost project compared to a cement plant our size.

20 You should realize that our company is prepared
21 to be a cogenerator, whether we made the application
22 or not for air permits at this point. If this is
23 really an issue, I can bring down to you tomorrow a
24 member of our Board of Directors, the chairman of our
25 parent company, the president and a bank who has had

1 cogeneration at Florida Mining discussed. I can get
2 all or some of those as quick as tomorrow to come down
3 and confirm that, whenever the economic incentives are
4 in place, our company desires to be a cogenerator.

5 It's very clear to me that the air pollution --
6 the air pollution questions of the permitting process
7 is a lot easier than the other. All you've got to do
8 is take about four months, be responsible enough to
9 submit a proposal for a scrubber, which is the Best
10 Available Control Technology, clearly, available to
11 this industry, and you can get your permits, clearly,
12 in four months, rather than the long process that
13 Florida Crushed Stone has been through, and that they
14 have complained about.

15 A little bit of background, just so that you'll
16 have a clear understanding of some of the salient
17 points and so that they not be misunderstood. The
18 Class I area in Florida, the one that we're most
19 concerned with is at Chassahowitzka. Then there is
20 another one up here at Bradwell, and then there is the
21 Everglades. Now, the important thing is, with respect
22 to Chassahowitzka, this little orange area represents
23 Hernando County, and you've heard and seen charts
24 about the three limerock operations that are there.
25 Mr. Bottcher even made the comment that you could move

1 these kind of facilities somewhere else.

2 If cogeneration is going to use the waste heat of
3 a cement manufacturing plant, it's got to be where the
4 limestone is. It's got to be where the plants are.
5 In this particular instance, the limestone that
6 extends through the central part of the state you can't
7 build cement plants on them. Everybody has gone and
8 looked and examined that ideology. There is too much
9 flint in the Ocala limestone formation through here,
10 all along the limestone on this west coast of Florida,
11 unless you are just above Chassahowitzka, has too much
12 magnesium. You can't move this. The incidence of the
13 Class I area, the proximity of Hernando County's pure
14 enough limestone deposits and its proximity to these
15 principal central Florida markets lies, unfortunately,
16 at this particular point right here in one place. It's
17 special. It's a unique circumstance.

18 Now, I think -- I'll skip over that and get
19 quickly to the point. Right now -- so that we can
20 answer some of the questions. This chart is taken from
21 data that was in Exhibit 41. Right now the increment
22 that is being used in Hernando County is 3 percent.
23 That includes our two cement plants and all the other
24 contributors to S_{O_2} .

25 GOVERNOR GRAHAM: Excuse me?

1 MR. BRONSON: Yes, sir?

2 GOVERNOR GRAHAM: That is 3 percent over the
3 Chassahowitzka Refuge, is that correct?

4 MR. BRONSON: That's correct. This is the S_{O_2}
5 impact on the Class I area, which is, in this particular
6 instance, Chassahowitzka. The 5 microgram limits,
7 because of the Class I area -- and I think Mr. Curtin
8 said, or I heard somebody else say you have to realize
9 that throughout Florida that increment is 18 times
10 larger in other so-called class areas. We have a
11 unique situation here where Class I limestone cement
12 manufacturing is all occurring in close proximity to
13 each other.

14 Now, Florida Crushed Stone's permit proposal
15 would use up 48 percent of the increment and then, if
16 we were to build the same sized plant, using the same
17 technology, then this green area is Florida Mining.
18 You can see that we add, as Mr. Curtin has pointed out,
19 because of our proximity, about 15 percent more S_{O_2}
20 than they -- than Florida Crushed Stone would, simply
21 because of our proximity to the Class I area. We're
22 closer there.

23 If Florida Rock, which has expressed an interest
24 in being a cogenerator, and if we were going to optimize
25 the potential for cogeneration in Florida, were to build

1 a plant, you can see that their blue area would use up
2 180 percent of the increment. That's clearly not
3 possible because of the Class I area and the increments
4 that are allowed.

5 Now, what we're trying our best to do is to allow
6 all three of these people. That's all we want to do,
7 and if it genuinely has potential for the electric rate
8 payers of Florida, then all three in this unique
9 location need to be able to be cogenerators, and we're
10 saying that, if you were to require scrubbers, that this
11 chart fairly and accurately depicts that only 30 percent
12 of the total increment would be used. Remaining is
13 70 percent. That addresses the problems Mr. --
14 Commissioner Copeland has brought to our attention, that
15 if you use these scrubbers you have then plenty of room
16 for the development of other cogeneration if it came
17 about, or for other economic development in the county
18 that is growing and needs desperately to be able to
19 have other economic activity.

20 Now, quickly, that leads us to really the closing
21 remarks. The question is, is the state of Florida --
22 is the Florida -- is the Power Plant Siting Board going
23 to have a policy to promote cogeneration? The question
24 is, and this is what I've been trying to point out to
25 you at this point, for the state -- in the record -- I

1 wish the Attorney General could hear this, but, for the
2 record, and in the record, cogeneration can produce
3 electricity more cheaply than that produced by a public
4 utility. That's in the record. Volume IV, pages 20
5 through 26, our testimony.

6 In the same volume, same area, "Cogeneration can
7 help avoid the necessity of adding expensive units to
8 the utility system." Another place in the record,
9 "Cogeneration projects would increase employment in the
10 area." Another area, "Investment in cogeneration will
11 increase the tax rolls and receipt of the area."
12 Cogeneration, in another area, "saves energy." In fact,
13 conservation was the sole basis for the PFC's deter-
14 mination in their look at the need for this facility,
15 in determining the need.

16 Now, the DER -- and this is what we -- somehow
17 we completely -- and the issue I'm most concerned with
18 and have been from the very beginning, the DER, itself,
19 acknowledged while it was concerned with providing
20 room for more cement plants, it did not consider the
21 need to preserve room for cogeneration projects. That's
22 in Volume IV, pages 132 to 134.

23 I'd also suggest to you that it's a matter of fact
24 that, in addition to that, these facts that I've just
25 enumerated were not ruled on by the hearing officer.

1 Now, you gentlemen have the legal means and the duty to
2 depart from the recommended order and to render a
3 decision on a matter of public policy that has not been
4 adequately considered in the record up to this point.
5 The Cabinet is the Power Plant Siting Board. Indeed, at
6 this particular point, it's obvious that the Cabinet is
7 the only one who can possibly protect the potential for
8 the development of cogeneration.

9 In reviewing the agenda summarized this morning, I
10 saw it here in the Capitol, all you have to do is look
11 at the agenda summary, whatever you call it that you
12 get for this meeting. There is a summary that makes no
13 mention of the policy issue related to cogeneration.
14 Then you look down there and you see the exceptions to
15 the recommended orders and so forth. What I'm trying
16 to tell you is that the larger policy issue with respect
17 to you all developing that for the -- developing the
18 potential of cogeneration has not been addressed at
19 this point. The PFC considered need, but there is
20 nothing on cogeneration in that record. The DER
21 considered only the environmental questions, which I
22 think is appropriate, and, as I said, the hearing --
23 the DER said they didn't even consider the matter with
24 respect to reserving for cogeneration.

25 Now, the PFC clearly is the state's leading

1 expert with respect to whether or not this cogeneration
2 is potentially beneficial to Florida's electric
3 customers and ought to be considered in a separate
4 manner, and I want to make it clear to everybody
5 concerned, I don't consider this whole matter
6 anybody's particular fault. I really understand, after
7 it's been explained to me, you have an agency. You
8 have hearing officers to hear these matters, but this
9 is the first time on this kind of issue, and the fact
10 that the policy issue has not been considered is one I
11 think of fact.

12 In closing, quickly, let me say -- well, before
13 I do that, since the question of the scrubber created
14 other kinds of environmental problems, quickly, my
15 calculations say that there would be sludge in the order
16 of 40 to 80,000 tons a year. These plants are located
17 on holes in the ground in Hernando County that has had
18 in the order of five to 7 million tons removed from
19 those holes for over at least 20 years, and lesser
20 tonnage for longer periods than that. We're talking
21 about, where do we have a place to place sludge. There
22 are not any toxin-laden wastes, and I would ask you to
23 ask Mr. Bottcher whether he or Florida Crushed Stone
24 has even looked at it at this point, because I under-
25 stand they haven't, as to what specific problems and

1 specific solutions are involved in getting rid of the
2 scrubber wastes. I'm telling you that even if there
3 are toxic wastes, and even if the water supply is
4 endangered, we removed anywhere from two to eight feet
5 and more feet of clay of overburden over these lime-
6 stones deposits. You layer that down one foot. It's
7 a common practice in order to protect toxic wastes from
8 being able to -- a window going into the aquifer or
9 water supplies, and you've made that layer impervious.

10 In closing, the Florida Crushed Stone proposal
11 forecloses competition, to us and to others, to be a
12 cogenerator on a comparable basis. This is not fair.
13 We don't think it is consistent with the actions of
14 this Cabinet or any regulatory body who regulates
15 matters of this kind.

16 Additionally, cogeneration, if you adopt the Florida
17 Crushed Stone permit proposal, the potential for co-
18 generation will be significantly reduced. This is not
19 fiction. It's a matter of the record. We think it's
20 a matter of fact.

21 What we're asking you, very specifically,
22 gentlemen, is leave us the opportunity. Leave us the
23 opportunity to be a comparable generator -- cogenerator.
24 That's all we're asking. Give the electric customers
25 of Florida the chance to realize greater benefits from

1 cogeneration than just one plant in connection with
2 central Florida cement manufacturing. By doing this,
3 requiring in Hernando County, with cement manufactur-
4 ers, the use of a scrubber and low sulfur coal with
5 emissions limited to 200 pounds, if you do that, then
6 the result is that fairness has been preserved,
7 cogeneration -- the potential for it has been developed
8 to its optimal levels, environmental -- the environment
9 has been protected in its greatest way possible, and
10 the economic interests of Hernando County have been
11 optimized.

12 Thank you very much.

13 GOVERNOR GRAHAM: Is there any questions?

14 MR. TURLINGTON: Yes.

15 GOVERNOR GRAHAM: Mr. Turlington.

16 MR. TURLINGTON: Mr. Bronson, did you indicate --
17 I believe that you did -- that the limerock that's in
18 Hernando County is actually the principal deposit that
19 we have in Florida that is suitable for cement and
20 particularly for cogeneration?

21 MR. BRONSON: That's correct, Commissioner
22 Turlington. There is limerock underlay in, geographic-
23 cally, virtually all of Florida, but you need a level of
24 purity in calcium carbonate. You need it absent flint,

25 //

1 which is essentially silica, and it needs to be in close
2 proximity to principal markets. Those conditions for
3 central Florida exist at Brooksville, and it doesn't
4 exist at other places.

5 MR. TURLINGTON: You made a reference, and these
6 are, I believe, your exact words, that we operate two
7 cement plants right in Brooksville. Did you mean they
8 operate right in Brooksville, or did you mean they
9 operate at the site of your deposit?

10 MR. BRONSON: That's what I mean, is at the site
11 of our deposit, which is eight miles northwest of
12 Brooksville.

13 MR. TURLINGTON: There is no way that, economical-
14 ly, you could talk about -- I gather that, if you in a
15 sense relocated the plant even a few miles, it could
16 change significantly this problem that we have with the
17 Class I area?

18 MR. BRONSON: That's correct.

19 MR. TURLINGTON: So, there is really not any way
20 that you -- well, you've flat out got to have whatever
21 it is right there at the location of the deposits, or
22 otherwise it's not economically viable?

23 MR. BRONSON: That's correct. I think Mr. Bottcher
24 and the DER has missed that, because I've heard him say
25 it twice that you could move these things around, but

1 cogeneration has to occur in conjunction with the
2 manufacture of another product, using heat, typically,
3 that provides excess heat as a waste heat that could
4 be used in the manufacture of electricity. It's got
5 to occur where the limerock deposits occur. It has to
6 occur where the cement manufacturing and the waste heat
7 generation occurs in order to get the optimal benefits
8 for cogeneration.

9 MR. TURLINGTON: Now --

10 MR. BRONSON: God knows I would save a lot of
11 money if this could be moved somewhere else.

12 MR. TURLINGTON: I don't see any great argument
13 here about what's going to be good for the rest of
14 Hernando County in terms of opening up something,
15 because it looks to me like what you're -- that, if
16 it's 18 times more pure, or whatever it is, that you've
17 got to have because of your location over there at the
18 Class I area, that obviously this is not the gut issue
19 of what it would take in terms of locating someplace
20 else in the east of Hernando County. So we're really
21 looking at this question of cogeneration opportunities
22 for, essentially, of the three deposits, if we look at
23 that -- for maximum -- for three deposits, that would
24 be suitable for cogeneration. Now, I gather -- someone
25 mentioned Portland Cement Company. Do they have a

1 deposit there somewhere, or what is that --

2 MR. BRONSON: The Portland -- yeah, well, they
3 do, actually. Portland Cement Company does have
4 deposits just northeast of Florida Rock's operations,
5 but my understanding is, and I think it's in the record,
6 that Florida -- General Portland and Florida Rock have
7 talked about General Portland building a plant on
8 Florida Rock's property. Now, those are companies, not
9 my own, and to be very --

10 MR. TURLINGTON: You're really still talking
11 about the three fundamental locations?

12 MR. BRONSON: That's right.

13 MR. TURLINGTON: 200 pounds, just -- going back to
14 that chart where you had 180, and then about -- you
15 know, the blue and the orange and the --

16 MR. BRONSON: Yes, sir?

17 MR. TURLINGTON: -- and the green, I believe, are
18 the three colors. And then you get over there to the
19 bar that's off to the right --

20 MR. BRONSON: Yes, sir.

21 MR. TURLINGTON: Is that a bar that represents the
22 control of 200 pounds of emissions?

23 MR. BRONSON: Yes, sir, I -- those numbers were,
24 I believe --

25 MR. TURLINGTON: If that's the case, what's wrong

1 with 400 pounds of emissions? It looks to me like
2 you'd have room for 400. I mean, what's the problem?
3 Why 200 pounds?

4 MR. BRONSON: With respect to using the increment
5 that's available, 400 is as good as 200, if that's the
6 possible. With respect to using the Best Available
7 Control Technology, using identical coals, and that's
8 where the DER is being misleading, I don't know why
9 they continue, other than to recite the record, this
10 characterizes what's in the record. With respect to
11 148 pounds, using the same coal as up here at the 900
12 pounds, and --

13 MR. TURLINGTON: Would there be any difference
14 in the economic operation if you had a different figure
15 than 200 pounds? If you were following that suggestion
16 that was made about the use of scrubbers and 200 pounds--

17 MR. BRONSON: Yes, sir, as you -- as the sulfur
18 content increases in coal, the cost per ton goes down,
19 and in eastern Kentucky where the coal -- we buy
20 140,000 tons of coal a year. We do know what we're
21 talking about in this area.

22 MR. TURLINGTON: That's per pound of coal, what
23 I'm talking about, you know, in the end you will really
24 generate electricity, and you're making cement --

25 MR. BRONSON: You're right.

1 MR. TURLINGTON: So, the per pound of coal may not
2 mean anything. From the standpoint of comparing one
3 operation from another it might make some difference.
4 Would it matter to me if you set a standard, and you
5 were in this business, would it matter to me if I had
6 a standard -- significantly to me, if I had a standard
7 of 400 pounds as opposed to 200 pounds?

8 MR. BRONSON: Yes, sir, I was going to try to
9 explain that to you, if it was 400 pounds and you were
10 using a scrubber, you would use less expensive coal, and
11 that sulfur content would be higher. That's what the
12 economics would call on a person to do.

13 MR. TURLINGTON: But the scrubber operation would
14 really be the same?

15 MR. BRONSON: Yes, sir.

16 GOVERNOR GRAHAM: Any further questions, Mr.
17 Turlington? Any questions? I'd like -- it seems to me
18 we've got consensus that the encouragement of cogener-
19 ation is in the public interest. So we want to do that.
20 As of today, none of the facilities in this area are
21 cogenerating, is that correct?

22 MR. BRONSON: That's correct, yes, sir.

23 GOVERNOR GRAHAM: What has been the constraint to
24 date, if it is economically advantageous, for their --
25 why has cogeneration not come today in this area if it

1 economically advantageous?

2 MR. BRONSON: The history of it, very quickly, to
3 hit on the points, and you could talk 30 minutes on each
4 item, the Federal Regulatory Commission, when they
5 passed regulations and asked the states to do the same
6 thing, they said, "Public utilities shall buy --
7 purchase the excess power from cogenerators and pay the
8 avoided costs."

9 It has taken some time to get the definition of
10 "avoided costs" straightened out, because of the mix of
11 fuels that utilities burn throughout the day,
12 throughout the year. So the avoided cost issue -- our
13 Public Service Commission aggressively, I think,
14 probably, ahead of most other PSCs in the country, the
15 best I can tell in talking to other cement companies,
16 aggressively grabbed this. They have indicated the
17 potential is there. It ought to be developed. They
18 tangled the avoided cost definitions. Those definitions
19 have been overcome, and that covers about 65 percent --
20 60 to 70 percent of the cost of generating electricity
21 now, over time. That means, if a cogenerator -- fuel
22 cost is less than the avoided cost of the generator --
23 of the public utility generator, then that means he is
24 able then to make a profit off the difference of
25 avoided costs, by definition of the public utility and

1 his cost of fuel, which is the way it will be in the
2 case of Florida Power Corporation right now, because
3 about 35 percent of their total fuel is oil, which is
4 more expensive than coal, which is what Florida Crushed
5 Stone or we or anybody else would use. Then the second
6 piece, Governor, over time, though everybody knows that
7 our public utilities are shedding those more expensive
8 fuels and opting for less expensive fuels, which is, of
9 course, coal, and if we don't build anymore nuclear
10 generators, well then, we're down to confronting all the
11 environmental issues and the economic issues related to
12 coal.

13 Now, the capacity credits, obviously there is --
14 at least 30 percent of the cost of generating
15 electricity has not been covered by the cogenerator,
16 because avoided only deals with fuel.

17 Now, again, our PSC aggressively recognized this,
18 recognized that incentives were necessary if the
19 potential was going to be developed, and they've been
20 conducting hearings which I think are close to
21 conclusion, and that will provide capacity credits that
22 covers the other 30 percent of the cost of generating
23 electricity.

24 I think, clearly, the cogenerators, the public
25 utilities might not be too happy with this, but

1 cogenerators clearly would have all other cost
2 advantages, because they wouldn't have all the
3 administrative expenses, all of the customer service
4 expenses, regulatory expenses, the so-called GNA
5 expenses. Cogenerators wouldn't have that. So, it's
6 real that an efficient cogenerator, having a boiler who
7 has BTUs to kWhs equivalent to the most efficient of
8 the public utilities, can, with appropriate capacity
9 credits, generate electricity less expensively than the
10 public utility. That's in the interest of the public,
11 I believe, as a policy issue, and one which we're saying,
12 the buck stops right here.

13 So, that's a kind of picture of the way it is,
14 Governor.

15 GOVERNOR GRAHAM: It seems to me that, if every-
16 body accepts that as being desirable public policy, we
17 then have to divide the issue chronologically; one,
18 what does it take to get started within the ^{near} mere term,
19 and, number two, what does it take to establish an
20 environment that will allow it to happen more
21 extensively in the mid and long term? Clearly -- I
22 don't know if these numbers are accurate, because they
23 were not proffered from the record, but accepting their
24 accuracy, that the cost of the total plant is 100 million
25 and the cost of adding scrubbers is an additional

1 10 million, I would assume that one of the issues about
2 whether this plant will go forward with cogeneration is
3 how much capital cost has to be invested as an initial
4 matter, and how that then affects the economics of the
5 overall operation?

6 It seems to be that the public's interest could be
7 advanced by making it as economically advantageous
8 within existing environmental standards for Company 1
9 to go forward, but with Company 1 clearly understanding
10 that, at such time that they have to meet more stringent
11 standards in order to leave a window of opportunity for
12 2, 3, 4, 5 and 6, that they are obligated to do so.
13 Would that not meet your concern?

14 MR. BRONSON: That meets my company's concerns.
15 It probably doesn't meet all of the environmental
16 concerns, but looking selfishly at our company's
17 interest, it would meet that concern.

18 MR. SMITH: Maybe Mr. Bottcher ought to answer
19 this. My understanding of the record is that scrubbers
20 were rejected as being environmentally non-sound at
21 this time.

22 MR. BOTTCHEER: That's correct, Your Honor.

23 MR. SMITH: So, Governor, that -- I understand
24 where you're coming from, but apparently that kind of
25 evidence was --

1 MR. BOTTCHEr: I'd like to just point out one
2 thing about scrubbers, and that is that they are not
3 environmentally unsound in all situations. It's just
4 that, when we do the balancing, you take into account
5 the reduction of the emissions and the environmental
6 consequences. In this situation it was --

7 MR. SMITH: Okay. But, constrained as we are in
8 the capacity that we sit here, you know, we don't have
9 the luxury to all of a sudden say, "Hey, scrubbers
10 sound like a great idea," because that was heard and
11 rejected.

12 GOVERNOR GRAHAM: Could I just pursue that
13 question, then. It depends upon whether you're a
14 microscopic or a telescopic environmentalist. I'm now
15 going to give us an opportunity to be a telescopic
16 environmentalist.

17 Assume that this project goes forward under the
18 guidelines recommended by the hearing officer, that is,
19 no scrubbers because of the finding that scrubbers, at
20 this point in time, are not, on balance, environmentally
21 desirable. At a point in the future, other applicants
22 come forward with serious proposals for cogeneration
23 which would have the effect, if they are to be given
24 economic parity with the first applicant, of requiring
25 Applicant 1 to have to adopt some technology which may

1 be scrubbers, if nothing better is developed in the
2 interim.

3 Now, the question is, what's the balance of public
4 interest in terms of the opportunity to get additional
5 concerns involved in cogeneration, versus the require-
6 ment that Applicant 1 go to the expense and to the
7 environmental complications of adopting a scrubber
8 technology? At that point, what is the legal status of
9 DER and what is the policy framework within which DER
10 will evaluate that question?

11 MR. BOTTCHEER: Well, it's awfully hard to predict
12 the future, but legally we can require a retrofit.

13 GOVERNOR GRAHAM: You can or cannot?

14 MR. BOTTCHEER: We can, oh, definitely we can, if
15 the circumstances dictate it, and there would have to
16 be some motivating factor, and I think an appropriate
17 allocation of the air resource would be such a factor.
18 If somebody came in, we'd have to go through a legal
19 proceeding. There would have to be an actual modi-
20 fication of this certification. It could be done if the
21 facts at that time show that it's necessary to do so
22 and that, you know, the Best Available Control
23 Technology for the other one required that this one be
24 reduced. Yeah, legally, I think we could do that. It's
25 just, pragmatically, it's going to be difficult,

1 because once a facility gets built and it's existing,
2 it's difficult to change it, but legally we can.

3 GOVERNOR GRAHAM: Well, I have understood that
4 retrofitting for scrubbers was a technically feasible --

5 MR. BOTTCHEER: Oh, yes.

6 GOVERNOR GRAHAM: -- and not inordinately,
7 additionally -- in other words, the expense of inserting
8 scrubbers on an already operating plant was not
9 substantially greater than inserting scrubbers at the
10 time of original construction?

11 MR. BOTTCHEER: Right, particularly if it's
12 designed with that in mind, that they may have to put
13 them on it at some time, that is correct. From a
14 technical standpoint, when they put them in it's going
15 to cost a certain amount, and the amount will vary, you
16 know, it will change somewhat, but that is correct.
17 When I was talking about the pragmatics of actually
18 going through and getting a legal requirement imposed to
19 have them retrofit, that is -- would be the difficult
20 thing, even though we could do it legally.

21 MR. SMITH: I don't know beans about scrubbers,
22 okay? How much do you know about scrubbers?

23 MR. BOTTCHEER: Not a whole lot, but we have some,
24 you know, experts that testified at this hearing.

25 MR. SMITH: Well, I mean, do you know enough to

1 answer this question: Given the technology that we
2 have today, assume the situation that we approve this
3 application and Mr. Bronson's company comes in here in
4 six months or a year and files an application saying,
5 if you will convert to scrubbers, there is enough of
6 the resource for us to share. We can all economically
7 be competitive. Given the environmental equation and
8 the state of the art, do you see DER entertaining that kind
9 of a proposal?

10 MR. BOTTCHER: We would entertain it. We would
11 avoid the requirement of --

12 MR. SMITH: I mean entertain it in a favorable
13 way?

14 MR. BOTTCHER: We would avoid the imposition of
15 a scrubber if it could be achieved in another way. We
16 prefer not to have the S_{O_2} generated initially so you
17 have to clean it up afterwards. If they could find a
18 lower source coal, or, you know, low sulfur coal,
19 perhaps that would be one way of doing it. One thing
20 that's an unknown right now is how much absorption will
21 take place going through the cement plant. The tests
22 show that it may get up to 40 percent. They are only
23 guaranteeing 25 percent.

24 In reality this plant may emit a lot less sulfur.
25 So a couple of years down the road, after it's in

1 operation, we may find that there is more leeway.

2 MR. SMITH: So, there might be enough available
3 resource, given the efficiency of the plant, to let
4 another company go forward without a change in technol-
5 ogy?

6 MR. BOTTCHEER: Yes, even with the 965, Florida
7 Mining could go ahead and put a plant in that they are
8 proposing, the 200 pounds, and that could go in under
9 the present --

10 GOVERNOR GRAHAM: But the problem is that's going
11 to put them at an economically disadvantageous position,
12 because they're going to have to have greater capital
13 costs than their competitors, and that --

14 MR. TURLINGTON: Is it the capital costs or is it
15 the operating costs, or is it both?

16 MR. BOTTCHEER: It's a combination.

17 GOVERNOR GRAHAM: Mr. Firestone?

18 MR. FIRESTONE: You know, we're sitting here and
19 dealing with a technical field of which I don't think
20 anyone here has great expertise. Is it my understanding
21 that the low sulfur coal that would be utilized in the
22 proposed plant would be foreign source coal?

23 MR. BOTTCHEER: No, Your Honor. It's eastern
24 Kentucky coal. It's got to be railed in. The national
25 policy to require scrubbers on new facilities is

1 predicated on encouraging the use of high sulfur
2 American coal. There is low sulfur American coal. The
3 problem is there is not enough to go around. So what
4 Congress has done is said, okay, let's --

5 MR. FIRESTONE: Okay. What would happen in the
6 event that some crisis developed that limited the supply
7 of low sulfur coal? What posture would the plant be in?
8 Would you then mandate retrofitting?

9 MR. BOTTCHEER: Yes. they're going to have to meet
10 that emission standard of .74. If they can't meet it
11 with low sulfur coal, they are going to have to either
12 close it down or come in with some alternative which
13 would probably be retrofitting a scrubber.

14 MR. FIRESTONE: What circumstances could you think
15 of whereby there could be a shortage of low sulfur
16 coal that we have not discussed today?

17 MR. BOTTCHEER: It's difficult for me to say, but
18 a possibility exists that the federal government could
19 say that, "We're not going to allow low sulfur coal to
20 be burned in power plants and we want to save it for
21 some strategic reason or for some other reason, and
22 you just have to find some alternative source of energy."

23 MR. FIRESTONE: Would it be possible -- I see
24 that Mr. Cresse is in the room from the Public Service
25 Commission, and I wonder, Mr. Cresse, if you would share

1 with us some of the proceedings that occurred before
2 the Public Service Commission and what conclusions you
3 may have, if any, on this issue?

4 MR. CRESSE: Mr. Secretary, let me say at the
5 outset that I'm not --

6 GOVERNOR GRAHAM: Mr. Cresse, for the record,
7 would you please give your name, address and affilia-
8 tion?

9 MR. CRESSE: Yes, sir. I'm Joe Cresse. I live
10 at 283 Shamrock South, Tallahassee, Florida, zip 32308.
11 I'm affiliated with the Florida Public Service
12 Commission, and --

13 GOVERNOR GRAHAM: I wouldn't go any further than
14 that.

15 MR. TURLINGTON: In what capacity, Mr. Cresse?

16 MR. CRESSE: -- and I'll not go beyond that in my
17 self-preservation instincts. Let me say that I'm here
18 at the request of you folks, and you have a very
19 difficult task, and a very difficult decision.

20 Relatively speaking, our decision was very simple.
21 The public policy we think of this nation, and we
22 believe of the state of Florida, is to encourage
23 cogeneration for multiple purposes. The first is that
24 the use of fuel, whatever that source of fuel is, in
25 this instance it may be coal, in other instances,

1 cogeneration may be from oil or it may be from natural
2 gas, but the basic underlying policy of this nation is
3 that it is more efficient use of limited natural
4 resources to have cogeneration than it is to burn
5 exhaustible fuels and some fuels which there are a great
6 deal of shortage of in the direct burning of electricity.
7 So, that is the national policy.

8 The law that was passed, I believe it was a
9 1978 law, at the national level, and we attempted to
10 implement that very rapidly -- as a matter of fact,
11 according to the Supreme Court we attempted to implement
12 it -- or, the district court, a little bit too rapidly,
13 and that is that we adopted some rules and regulations
14 without specific Florida Statute authority to do so,
15 and so our initial rules were overturned and we
16 started over again.

17 We do have, as an objective, clearly, to provide
18 the appropriate types of incentives to get as much
19 cogeneration in the state of Florida as economically
20 feasible, and that's true because we think, not only
21 from the standpoint of the preservation of the fuel,
22 but in fact, for the benefit of the rate payer, it is
23 beneficial if the utilities can avoid making the
24 marginal cost investments that would be necessary, and
25 they are enormous, to meet the growth demands for

1 electricity in the state.

2 Energy conservation will only go so far, and we
3 have probably an array of programs throughout the state
4 of Florida that I would rank, based on limited know-
5 ledge, but somewhat state pride, too, we probably have
6 the best conservation programs being performed by
7 Florida utilities than any state in the Union, and they
8 are getting results. As a matter of fact, from 1980
9 to date, the conservation efforts will save about one-
10 half of the planned additions that were projected in
11 1980, when the Legislature authorized that law.

12 That is 6000 megawatts, and it costs, if I could
13 ever get my figures in the right place, \$1,500,000 per
14 megawatt, or \$1,500 per kilowatt to build electric
15 generating plants in this state.

16 So, we are interested in it. We think it's in
17 the long range best interest of everybody in the state
18 of Florida.

19 As far as fuels are concerned, low sulfur fuel is
20 in plentiful supply in this nation. There is not much
21 imported that can be imported, and it's a question of
22 price. It's always a question of price. There is
23 pending at the federal level a tremendous concern about
24 acid rain, particularly in the northern part of the
25 United States, and in the southern part of Canada.

1 Congress has been considering various forms of legis-
2 lation to in fact deal with the acid rain problem in
3 the Northeast. You may recall in President Reagan's
4 message he wanted to discuss the matter for an
5 additional year. There was some thought that he was
6 going to support legislation that would in fact require
7 a reduction in S₀2 emissions equivalent to 50 percent
8 of what is in fact being emitted now in the eastern 31
9 states of this nation.

10 If that takes place, it would depend then upon
11 what they mandated in order to achieve those reductions.
12 If, in fact, they left the utilities and the other
13 industrial concerns who are emitting S₀2 to the least
14 cost alternative, then I suspect that low sulfur coal,
15 the price of it, would increase rather dramatically.
16 That was one of Congress's concerns, that if you leave
17 it to the least cost alternative to remove S₀2 emissions
18 by 50 percent, that you will cause a tremendous
19 dislocation economically throughout the nation, in that
20 no high sulfur coal will be sold in the nation because
21 the least cost alternative would be the purchase of low
22 sulfur coal. So, the price could go up but I don't
23 think there would be tremendous shortages of it. There
24 would be a dislocation time, and you'd still be able
25 to get it. The question is what the price would be.

1 One of the benefits of the Congressional policy
 2 that is applicable to power plants built by electric
 3 utilities, the requirement that they put on a scrubber,
 4 is that it gives you a wider range of fuels which you
 5 can use in order to achieve the type of reductions that
 6 are mandated from an environmental standpoint.

7 Obviously, if they take out 90 percent of what-
 8 ever S₀2 is included in the fuel, that 90 percent of
 9 four and a half pounds, as opposed to 90 -- to 4½ per-
 10 cent as opposed to 90 percent of 1 percent sulfur coal,
 11 you'd still get the same 90 percent, but you'd have a
 12 whole lot less left over. So, those options will be
 13 available in the future, and I expect that that's the
 14 principal reason that sulfur -- that the electric
 15 power plants must put on scrubbers or equivalent
 16 technology with the construction of a new plant, and
 17 that's a long speech, but that's about all I can offer
 18 you, unless you have some specific questions.

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1 GOVERNOR GRAHAM: Mr. Cresse, if we are all
2 agreed that what we want to do is to create an
3 environment that will encourage cogeneration, we
4 have a situation here in which one applicant is
5 prepared to go forward with a cogeneration cement
6 plant. This applicant can achieve that purpose
7 and stay within air quality standards without having
8 to install scrubbers. The consequence of that,
9 however, is that the window of remaining clean air
10 is a relatively shallow one, and could have the
11 effect of, in the future, precluding other similarly
12 situated companies at a similar capital and operational
13 cost from engaging in cogeneration.

14 There is the possibility, however, that applicant
15 one could be required as a condition of initial
16 licensure to agree to install state of the art
17 emission control devices at some future time whenever
18 those other competitors, or noncompetitors but
19 emission-generating industries, indicate a serious
20 intent to go forward, and who would otherwise be
21 precluded from doing so because of the degree of air
22 pollution created by applicant number one. Now, my
23 question to you is, how would you recommend we work
24 our way out of this thicket to allow us to get somebody
25 who wants to start, so we can continue the process,

1 but in the same step, create a future environment
 2 that will not discourage others from doing so, either
 3 because of environmental constraints or because of
 4 economic disadvantages that they will be put to?

5 MR. CRESSE: Governor, I think what I would
 6 do is fairly simple. If you had personally been
 7 assigned to this case nine months ago at the entry
 8 level, and had proposed this question to the two
 9 contestants in this application, one being the
 10 applicant, and I believe the other one being Mr.
 11 Bronson, and asked them that question, I believe
 12 this issue would have been solved a long time ago;
 13 and I think I heard Mr. Bronson answer it earlier
 14 when you asked -- earlier, when you asked him that
 15 question, he said that seems to be satisfactory to
 16 him. I would suggest that the owner of the other --
 17 of the application is here, and if you ask him that
 18 question you may have resolved this issue very
 19 amicably among all parties, and I would take the direct
 20 approach and ask him, because I think that --

21 GOVERNOR GRAHAM: So, your answer to the question
 22 is to ask the question to somebody else, is that
 23 right?

24 MR. CRESSE: No, sir. I think the -- what you're
 25 dealing with here, Governor, is, first, a unique area

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1 in the State of Florida, unique from its environmental
2 constraints that have been placed on it, but also
3 unique because it has, simultaneously, great potential
4 for cogeneration.

5 Unfortunately, there may be but one of these
6 places in the State, but it is unique, and so the
7 question really is, does this unique situation
8 require a unique kind of treatment? I think you've
9 discovered a way that is fair to all parties, would
10 in fact encourage cogeneration, and I believe these
11 folks back here on the left are just anxious to
12 come up and say, yeah, they think that's a pretty
13 good idea.

14 Governor, why don't you ask them, and I think
15 we can all go home?

16 GOVERNOR GRAHAM: Well, with that --

17 MR. CRESSE: If they don't answer positively,
18 I'll come back and help you along with it.

19 GOVERNOR GRAHAM: With that prospect in mind,
20 would the representative of the applicant please
21 come forward and -- to respond to the question which
22 I asked to Mr. Cresse, and he adroitly deflected?

23 MR. CURTIN: Would you like to hear from one
24 of the attorneys or --

25 MR. SMITH: Whoever has got the answer.

1 MR. CRESSE: As your last adviser, I suggest
2 you hear directly from the owner.

3 MR. CURTIN: If I could just briefly respond,
4 and then you can hear from the owner if you desire
5 to do so.

6 Governor, I think the answer to the question is
7 that we're prepared, of course, to comply with any
8 requirement or rule that's subsequently adopted in
9 accordance with the Siting Act, and I think you can
10 see from the complexities of the situation -- not
11 the chart, which we didn't have an opportunity to
12 review at the hearing, but the modeling information,
13 that it is obviously very complicated, and it seems
14 to me that we've got a situation where you have
15 Florida Mining and Florida Rock industries that
16 are both -- have said they are potential cogenerators,
17 that are clearly going to be in direct competition
18 for whatever increment is going to be available,
19 because of the fact that that's just the way they
20 are located, and that we may or may not contribute
21 to that situation, based upon the modeling information,
22 and it seems to me that it would be reasonable at
23 such time as those facilities came in, and both
24 tried to get in, that if they could demonstrate that
25 it was directly a result of our facility, and that

1 they were proposing to use technology that they
2 wanted us to use, and they couldn't come in, that
3 it would be reasonable to reopen the proceeding on
4 Florida Crushed Stone to see what could be done,
5 and I guess that would be the answer to the question.

6 GOVERNOR GRAHAM: So, would you like to propose
7 some language that might be added to the order that
8 would ^{effect} affect that?

9 MR. CURTIN: Well, the question that I'd ask,
10 and perhaps this is a question for the Attorney
11 General or for DER, we believe that Florida Mining
12 is a party to this proceeding. We have -- we did
13 contest their standing at the hearing level. We
14 have not contested it in front of you.

15 So, as of today they are full participants. If
16 they choose not to exercise the right to appeal,
17 assuming that the project is approved, we will
18 contest the standing no further. That gives them
19 the ability, under the Power Plant Siting Act, to
20 request a modification of our permit as a party
21 based on changed circumstances. They would have the
22 right to do that, and the agencies would then have
23 the right to review that.

24 That is in addition to the reopener clause in
25 the statute, based on future rules. So I guess the

1 answer, or what I'm saying, simply is that it looks
2 to me like there exists two mechanisms to achieve
3 that end without modifying the conditions that are --
4 that have been proposed.

5 GOVERNOR GRAHAM: As I understand, what you're
6 suggesting is that, if you agree to not further
7 challenge Mr. Bronson's firm's right to be an
8 intervenor, and his firm agrees not to pursue an
9 appeal, assuming this order is granted, then that
10 would allow Mr. Bronson's firm to, at a future date,
11 request a reopening of this order for purposes of
12 considering additional conditions, such as scrubbers --

13 MR. CURTIN: Or some other type of reduction,
14 that is correct.

15 GOVERNOR GRAHAM: -- or whatever else may be
16 appropriate at a future date?

17 MR. CURTIN: That is correct.

18 GOVERNOR GRAHAM: Mr. Bronson, do you want to
19 respond to that offer?

20 MR. BRONSON: Governor, I think, in fairness,
21 what -- if I understand -- maybe the lawyers can
22 straighten this out, but I think what Mr. Curtin is
23 suggesting is that you issue the permit as submitted
24 today and leave the question in the future as to
25 whether or not we did -- if we become a cogenerator,

1 to raise all these same issues that we've raised
2 here today. What he's doing is saying to us,
3 "Well, why don't you spend another \$100,000.00 to go
4 through this kind of process with the facts the same
5 as they are right now?" I want you all to understand
6 in fairness, and I think Brown Greg and Mr. Curtin
7 will bear this out, all of our business people, one
8 generating unit like this would generate something
9 like nine hundred ninety-seven million kWh a year.
10 We both variously guess at the cost of amortization
11 of the capital, the operation of the scrubber would
12 be something like two to three tenths of a cent per
13 kWh, tenths of a cent per kWh. That's twenty-seven
14 million dollars a year difference in revenue in
15 operating costs for those who don't have scrubbers,
16 as opposed to those who do have, and that's at the
17 heart of this thing, and I think that, when we say
18 we're not willing to talk about it in the future,
19 let's deal with it right now. It's for that kind
20 of reason --

21 GOVERNOR GRAHAM: But we have another factor
22 that's injected now, and that's that the environ-
23 mentalists, or those who are looking at this from a
24 strictly environmental standpoint, have indicated
25 that, at the present time there are some negative

1 factors, putting aside the air quality factors,
2 to requiring scrubbers before they are necessary.

3 Do you think it's possible that language could
4 be developed that would be incorporated in this
5 order which would carry out the public purpose of
6 facilitating and opening at such time as there was
7 another applicant whose application would be
8 adversely affected, environmentally or economically
9 by the conditions that were granted here?

10 MR. CURTIN: Governor, we're -- certainly we're
11 not trying to be unreasonable or difficult. I
12 think what I'm saying is simply that I see no way
13 for us to come up with language that would solve
14 everybody's problem and, at the same time say, that
15 we are never going to have the opportunity to test
16 that somewhere, or that certain burdens would have
17 to be met, as they would if modifications were
18 requested, simply because we think that the evidence,
19 that -- you know, we've had hearings on this thing.
20 A lot of the things that you've heard today are not
21 in the record. We haven't had an opportunity to
22 test those things, the evidence about the relative
23 impacts and, you know, how these facilities contribute
24 to the increment or the wind direction, or things
25 that we've presented, and I think that it would be

1 great if we could come up with some kind of language,
2 but I'm afraid that the difficulties of doing that
3 are just pretty immense.

4 I mean, I think that what you're saying is
5 that, you know, five years down the road, if somebody
6 wants to come in and build a cogeneration facility,
7 and they are somehow shut out by our action, you
8 know, is there something that can be done, and I
9 think the answer to that is yes. The variables in
10 that process are the things that would happen in
11 the meantime, where other facilities that are not
12 under the jurisdiction, for example, of the Governor
13 and Cabinet, would get permits and might have an
14 effect on what's happening up there, and so, you
15 know, that's kind of a -- there is a lot of vagaries
16 here. As you can see from the modeling information,
17 when you start talking about whose impact is doing
18 what, we think that it should have to be demonstrated
19 that it's our impact that's causing the problem here
20 before we are required to -- you know, to make a
21 massive change to the project, but we are certainly
22 willing to face the possibility, given the circumstances,
23 and a change in circumstances, that proceedings could
24 be initiated, either through the Department's action,
25 which we would be allowed to participate in, or through

1 action to modify our own permit, which we would
2 also be allowed to participate in. In other words,
3 it's too complicated and speculative, that it's
4 difficult for us to agree today on a set of circum-
5 stances.

6 MR. FIRESTONE: Governor, in review of those
7 remarks, because it is complicated, because I think
8 it's an important issue facing Florida's future, I'd
9 like to move to defer to allow the parties to have an
10 opportunity to negotiate and, although it's not
11 part of the motion, should Mr. Cresse be available,
12 he could probably operate as sort of a referee
13 arbitrator on the issue, unless that's a -- that's
14 not part of my motion, I'm asking a question --

15 MR. CRESSE: That's the reason I asked you to
16 ask the owner, Governor, not the lawyers. Unfortu-
17 nately you get obscure answers always when you --
18 not always, but occasionally on very heavy issues,
19 you get obscure answers that you don't totally under-
20 stand if you'd have asked the owner, but let me just
21 say this, sir, I understand what you're attempting
22 to do in your language. I think that is appropriate,
23 because of this unique area, because of the great
24 potential for cogeneration in this unique area. It
25 seems to me that if you defer this matter on this

1 single issue to see if all these lawyers can write
2 up an agreement of what takes place under those
3 circumstances, and you request DER's staff to
4 develop -- to write one up in the even they fail,
5 you may have accomplished a tremendous --

6 MR. FIRESTONE: I'd rather see two principals
7 get together than we telling the owners what to do.

8 MR. CRESSE: I would have, too, sir, but I
9 would suggest that you maybe not try to have someone
10 arbitrate between them, hold the heavy hand or the
11 light hand over them and say, "This is what we would
12 like to see, and we're asking you all to sit down
13 and negotiate this language. We're also simultaneously
14 asking the DER attorney to bring us this language,
15 should you all fail." Nine chances out of ten,
16 they will agree to the language rather than want
17 DER's language, I can almost guarantee that.

18 MR. FIRESTONE: Governor, I'll put the motion,
19 and it does not include the conscription of Mr.
20 Cresse.

21 MR. CURTIN: The owner is on his way to the
22 podium.

23 GOVERNOR GRAHAM: What is that?

24 MR. CURTIN: The owner is on his way to the
25 podium.

1 MR. LEWIS: Governor, could I ask a question?

2 GOVERNOR GRAHAM: Yes, Mr. Lewis.

3 MR. LEWIS: As much as I enjoy these hearings,
4 we had two hours of this at the last meeting, and
5 more than two hours this evening, and I have no
6 place to go. Let me just say that. I never plan
7 to travel on Cabinet day. I know better after
8 nine years.

9 I think we're somewhat constrained by the
10 Administrative Procedures Act, and I'd like to
11 ask the Attorney General, I'd just like to move that
12 we adopt the recommended order. I really, up until
13 about two minutes ago, you know, was hoping also
14 we could come to some resolution, but I don't think
15 that's possible.

16 I don't think we're sitting here as arbiters.
17 I think we are in a quasi-judicial capacity. We have
18 a recommended order. We have findings of fact.
19 I sort of liked the recommendation that Mr. Curtin
20 made, but the opposition doesn't want to do that,
21 and that's up to them.

22 I think we ought to go ahead, fulfill our
23 statutory responsibility. There will probably be
24 an appeal. It is a difficult decision we have to
25 make. Mr. Cresse is right, but this won't be the

1 first or the last time that we have had a unique
2 situation, a difficult situation.

3 Let's bite the bullet and do what we have to
4 do, and I move that we adopt the recommended order
5 of the hearing officer.

6 GOVERNOR GRAHAM: Okay. We had a motion to
7 defer. Was there a second to that motion?

8 MR. SMITH: No, sir.

9 GOVERNOR GRAHAM: All right. There was no
10 second to that motion, so that motion has failed.

11 Now, we have a motion to approve the hearing
12 officer's report. Is there a second to that motion?

13 MR. SMITH: Is it too soon to ask a question?

14 GOVERNOR GRAHAM: No, ask a question if it's
15 in order.

16 MR. SMITH: You know, I think there is a way
17 to write this order to capture, really, the intent
18 that was expressed by the Governor, that somewhere
19 down the road the intervenors would have the
20 opportunity to come in, present their case, and
21 maybe a requirement for modifications, but I'm
22 concerned, Tommy -- Mr. Bronson, that you all don't
23 fully understand. I want to make sure that -- and
24 I think, agreeing with what the Governor may be talking
25 about, that you all really do understand the posture

1 that we're in, because you keep talking about
2 scrubbers, and the fact is, that evidence was
3 presented to the hearing officer. That was rejected,
4 and we don't have the power to disregard that,
5 except in a very unique situation where we've read --
6 where every member of this Board can testify they
7 have read the record themselves, and they find no
8 substantial, competent evidence, or no undisputed
9 facts that would cause us to overturn the hearing
10 officer's recommendation.

11 So, the issue of us imposing a requirement for
12 scrubbers, you know, in this proceeding is really
13 moot. We don't have that power, and I'm not sure,
14 based on what I keep hearing from you and some of
15 your witnesses, that you all, you know, fully
16 appreciate that.

17 That's not to say that down the road with a
18 change in the technology, you know, that that could
19 happen, and we're not foreclosing that, and I
20 think what the Governor's saying is we need to make
21 it clear that, down the road, and that maybe next
22 year, six months from now or three years from now,
23 you could come in and open this proceeding, show
24 that there was new technology, that there is a better
25 way for everybody to do it, and everybody share that

1 limited resource, and that's the way we would be
2 going forward.

3 I just think it's important for everybody to
4 understand what we're talking about.

5 GOVERNOR GRAHAM: Gentlemen, we still don't
6 have a second to the motion as made by Mr. Lewis.
7 Is there a second to that motion, which is to approve
8 the hearing officer's report? All right. That
9 motion fails.

10 Now, as I understand, we have a problem in
11 that the 90 days for this application runs out before
12 our next meeting, which means that we've got to
13 make a decision between now and that date, or have
14 a deferral if we are in agreement to waive that.

15 MR. SMITH: Let me just -- let me try a motion
16 that we would adopt the recommended order as the
17 final order in this case, reject the exceptions to
18 the findings of fact because there is competent
19 substantial evidence in the record to support the
20 hearing officer's findings, reject the exceptions
21 to the conclusions of law and conditions as they
22 are supported by the findings of fact, but that
23 the intervenor can continue to have standing in this
24 case and the opportunity to, at some future date,
25 to reopen this case to present evidence of new or

1 change in technology in order to obtain a permit
2 to operate a cogenerating plant.

3 MR. LEWIS: Second.

4 MR. CURTIN: That's fine with us.

5 MR. TURLINGTON: I would think so.

6 MR. SMITH: I think that captures, Governor,
7 what you were trying to get to. Maybe -- I don't
8 have private authorship.

9 GOVERNOR GRAHAM: All right. There is a motion
10 and second on that.

11 What I'm trying to get to is to let this project
12 go forward without imposing any unnecessary economic
13 or environmental burdens, and I'm convinced at this
14 point that the hearing officer's recommendation is
15 an appropriate commencing point. Second, I want
16 to clearly leave open the opportunity for this
17 matter to be reviewed at a future date, taking into
18 account economic and environmental factors that
19 might, at that point, warrant a further condition
20 upon this order and require changes in the capital
21 or operating processes of this plant in order to
22 accommodate the needs of our economic entities, some
23 of whom may be other cement plants interested in
24 cogeneration, some of whom may be economic activities
25 of an unspecified alternate nature.

1 If we could capture that concept, I think we
2 would have done the best we could for the public
3 purpose.

4 MR. SMITH: I accept that amendment.

5 GOVERNOR GRAHAM: Was that drafted with
6 sufficient -- with clarity to --

7 MR. BOTTCHE: I'm writing it down here. I
8 think I've got the essence of it, taking both the
9 Attorney General's and the Governor's language, it
10 would say in the order that the intervenors would
11 continue to have standing and to have the opportunity
12 to reopen the certification upon a showing of a
13 change in circumstances, taking into account social
14 and economic factors which would require a reduction
15 of emissions in order for other facilities to be
16 permitted in the area.

17 MR. BRONSON: If you'll add the words, "other
18 facilities on a comparable basis," that's fine.

19 GOVERNOR GRAHAM: I would -- it is my intent
20 that other facilities, where the other facilities
21 are, themselves, comparable in terms that they are in
22 the same business, that they would have an opportunity
23 to enter into cogeneration on equivalent economic
24 and environmental terms with this applicant.

25 MR. CURTIN: Governor, we -- the owner has

1 instructed me to advise you that he would commit to
2 continue to look for ways to reduce emissions, and
3 should he find a methodology that would be acceptable
4 under the scheme that he is proposing, that we would,
5 in advance of Florida Mining having a problem, come
6 back to this body and request that the conditions
7 be modified to reflect that.

8 GOVERNOR GRAHAM: What's your feeling about
9 the additional language that we've just added to
10 this approval?

11 MR. CURTIN: I believe it would be acceptable.

12 GOVERNOR GRAHAM: All right. We have a motion --

13 MR. LAWSON: Governor, might I have an opportunity
14 to read it for --

15 GOVERNOR GRAHAM: Yes, sir.

16 MR. LAWSON: -- for Florida Mining?

17 GOVERNOR GRAHAM: Why don't you read it out
18 loud so everybody can hear it and everybody can --

19 MR. BOTTCHEER: The Intervenors continue to have
20 standing in this proceeding --

21 GOVERNOR GRAHAM: Excuse me, sir. This comes
22 at the end of the original sentence which the Attorney
23 General read, which -- so we're now starting -- strike
24 the period and insert the additional language.

25 MR. BOTTCHEER: Well, it would be a new paragraph

1 added to --

2 GOVERNOR GRAHAM: All right.

3 MR. BOTTCHER: This paragraph for the Attorney
4 General's last part of his motion, "Intervenors
5 continue to have standing in this proceeding to
6 have the opportunity to reopen certification upon a
7 showing of a change in circumstances, taking into
8 account social and economic" -- "I just added the
9 "social", it wasn't in there originally.

10 GOVERNOR GRAHAM: All right.

11 You used the word -- could you put in there,
12 "social, environmental and economic circumstances"?

13 MR. BOTTCHER: Okay. Social -- right -- economic
14 and environmental, that's the order they are in, factors,
15 taking -- "change in circumstances, taking into account
16 social, economic and environmental factors which
17 would require a reduction of emissions in order for
18 other facilities on a comparable basis to receive
19 permits in this vicinity."

20 Okay. What Mr. Lawson is suggesting, instead of
21 saying, "Upon a showing of a change in circumstances",
22 just a "showing of circumstances."

23 MR. LAWSON: Just one moment, please.

24 GOVERNOR GRAHAM: All right. Does anyone want
25 to comment? We have a motion which incorporates that

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language, which has been seconded. Does anyone wish to make any comment before we take action on that motion? Does any member of the Board have any comments? If not, is there any objection to that motion? Without objection, the motion is adopted.

Thank you. Is there any other business to come before the Cabinet? All right. The meeting is adjourned.

(Whereupon, consideration of the Department of Environmental Regulation Agenda Item No. 1 was concluded.)

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STATE OF FLORIDA)
COUNTY OF LEON)

I, RAYMOND F. DUTKIEWICZ, Court Reporter and Notary Public at Tallahassee, Florida, do hereby certify as follows:

THAT I correctly reported in shorthand the foregoing proceedings at the time and place stated in the caption hereof

THAT I later reduced my shorthand notes to type-writing, or under my supervision, and that the foregoing pages 3 through 109, both inclusive, contain a full, true and correct transcript of the proceedings on said occasion;

THAT I am neither of kin nor of counsel to any parties involved in this matter nor in any manner interested in the result thereof;

THIS 21st day of March, 1984.

RAYMOND F. DUTKIEWICZ
Court Reporter and Notary Public
State of Florida at Large

My commission expires 3/23/86

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