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DEPARTMENT OF ENVIRONMENTAL PROTECTION
DIVISION OF AIR RESOURCES MANAGEMENT

PUBLIC WORKSHOP

May 13th, 1999

Brevard County Agricultural Center
3695 Lake Drive
Cocoa, Florida 32926

OLEANDER POWER PROJECT
AIR PERMIT APPLICATION

PERSONS PRESENT:

- LEN COZLO
- MICHAEL HALPIN
- CLEVELAND HOLLADAY
- AL LINERO
- TAMMY EGAN
- DOUGLAS BEASON
- KIM TOBER

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AIR REGULATION

P R O C E E D I N G S

1
2 MR. COZLO: Good evening, ladies and
3 gentlemen. My name is Len Cozlo. I am the
4 program administrator in the Central District in
5 Orlando.

6 And this evening, it will run about two
7 hours, this meeting. We'll have discussions
8 concerning the Oleander project that you are here
9 for, of course.

10 Now, before we get going, if anybody desires
11 to speak at the end of the presentation or at the
12 end of this portion of it, please fill out a card
13 in the back. Ms. Tober has them. It's a
14 yellow/orangeish type card that she's holding up
15 in the back. Put your name there and we'll bring
16 them up here and then we'll call you up,
17 accordingly, if you so desire to say something
18 after this.

19 This evening -- yes, sir.

20 MR. ROWE: Before you get started, in
21 reference to your notice to the general public, I
22 just got this from the gentleman there, and I'm
23 having a very serious concern because there was
24 nothing in today's paper pertaining to this
25 meeting.

1 The document I have in my hand here, I just
2 got from the gentleman there, stating that this
3 was requested to be put in Today's, April the 8th
4 paper, 1999.

5 If I'm not mistaken -- and I'm not a lawyer,
6 it appears that you are required to make another
7 announcement in a specified period of time so that
8 the public will be aware of what's taking place.

9 I spoke with the county commissioners today
10 and their staff doesn't even know anything about
11 this meeting. I stayed on the phone better than a
12 half a day today calling people so that they would
13 be aware of this meeting and ask them to call
14 other people.

15 I'm having a problem that this was not done
16 in the paper as you did your intent to issue. It
17 doesn't have the PR that you intend to issue, the
18 permit, in reference to this meeting, is where the
19 general public is concerned.

20 I don't know what kind of negative impact it
21 has had on the public because there's quite a few
22 people who are upset with this particular subject
23 matter and would probably be here today had they
24 had public notice.

25 And the times are screwed up, and I'm

1 requesting, before you ever get started, that this
2 hearing or whatever you care to call it, be
3 postponed until proper notice is given to the
4 public, and then the people will have an
5 opportunity to come here and voice their concern.

6 And not only that, but half the county
7 commission might have some interest in reference
8 to what you're doing here today.

9 So, that's why I wanted to speak before you
10 ever got started. It doesn't make sense to sit
11 here two hours and a lot of people not knowing
12 about this meeting, had they known about it, they
13 would have been here to voice some concern and to
14 advertise something April the 8th and expect
15 somebody to keep it here -- I can't figure out
16 what I did yesterday.

17 So, I'm having a real serious problem, and I
18 would like for the record to reflect that I have
19 voiced the concern and I therefore request that
20 this meeting be postponed and that the proper
21 notification be given to the public so that they
22 might be able to be here to voice their concerns
23 if they have any.

24 Thank you, sir.

25 MR. COZLO: Doug, what is your -- what do

1 you want to say about that?

2 MR. BEASON: I can't speak directly --

3 MR. COZLO: This is our attorney, Mr. Doug
4 Beason, from OGC, Office of General Counsel in
5 Tallahassee.

6 MR. BEASON: And I notice we've got a court
7 reporter present. So, if we're going to make a
8 record or a good record, I would suggest that when
9 the people speak, that they identify themselves
10 before they speak so that the court reporter can
11 take down their name and your comments can be
12 attributed to you.

13 MR. COZLO: What is your name, sir?

14 MR. ROWE: My name is Clarence Rowe. I live
15 at 14 Pennsylvania Avenue, Rockledge. Did you
16 mention a court reporter?

17 MR. BEASON: Yes. I believe there's a court
18 reporter.

19 MR. COZLO: Right here.

20 MR. ROWE: Oh, sorry about that.

21 I was still -- I would like to go a little
22 bit further, then, considering that this hearing
23 be postponed. I would like to demand that it be
24 postponed, based on the fact that the proper
25 notification hasn't been given to the public.

1 MR. BEASON: All I'm saying is that I
2 haven't looked at the document that you just
3 looked at it.

4 MR. ROWE: Take your time.

5 MR. BEASON: My understanding is notice has
6 been provided 30 days prior to the public hearing.

7 MR. COZLO: Yes.

8 MR. BEASON: And I would suggest -- I'll--

9 UNIDENTIFIED SPEAKER: There's nothing
10 nothing since, nothing.

11 MR. BEASON: Well, let me just say this:
12 The requirements that we are operating under here
13 are the requirements of federal law, and it's my
14 understanding that as far as this -- the notice
15 goes for this public meeting, proper notice has
16 been given.

17 And I understand your comment and perhaps,
18 you know, we can address it another day once I've
19 had an opportunity to --

20 MR. ROWE: Let me --

21 MR. BEASON: You have some people here. And
22 there obviously are some people here.

23 MR. ROWE: Well, I agree with that. What
24 I'm saying is --

25 MR. BEASON: I understand that you don't

1 agree with the type of notice that was given.

2 MR. ROWE: Uh-huh.

3 MR. BEASON: But I haven't heard you say
4 specifically why the notice that was given was not
5 proper, other than when you got it, you didn't
6 write it down and so you didn't know about it.

7 I don't know that that necessarily rises to
8 the level of improper notice. So, what I'm saying
9 is, there are people here and we can have the
10 meeting. And if at some point in time you can
11 show me facts or law or facts and law to show that
12 the public -- that the notice that was given is
13 improper, then we will revisit the decision.

14 But, I haven't heard anything yet.

15 MR. ROWE: Well --

16 MR. BEASON: Not anything that shows that
17 the notice was improper, other than you don't like
18 the way that it was provided. That doesn't --
19 that doesn't suffice. I'm sorry.

20 MR. ROWE: Well, I'll --

21 MR. COZLO: Ladies and gentlemen, I think,
22 let's proceed with this. If you do want to speak,
23 please, there are cards up there to present your
24 name. We'll go forward with the program here, as
25 our attorney has noted.

1 Your comments have been noted in the record,
2 sir, and we will go forward from there.

3 MR. ROWE: I think what you're doing, you're
4 alienating people with your authority, rather than
5 accommodate people.

6 UNIDENTIFIED SPEAKER: I think you guys are
7 playing a lawyer game here, using some arcane law.
8 That's not what we want to hear in a public
9 dialogue, to do that kind of thing. That's why
10 you have newspapers.

11 My name is Louis Bard (ph), Blue Heron Road.
12 You are totally flying in the face of public
13 dialogue by playing some arcane lawyer game saying
14 you advertized a month ago in fine print
15 somewhere. It's ridiculous.

16 MR. COZLO: Okay.

17 MR. ROWE: I have one other concern here.
18 What about people that don't take the paper?
19 You've got to post this stuff, you've got to make
20 it where the public can know about it, because
21 everybody can't read and everybody don't take
22 Today's paper.

23 MR. COZLO: Thank you, sir. All right.
24 We'll proceed accordingly.

25 And what we'll have this evening, we are

1 going to have several people here. We have Mr.
2 Douglas Beason here as our attorney for the Office
3 of General Counsel in Tallahassee.

4 We have Mr. Al Linero. He's the supervisor
5 of the permitting in Tallahassee on this project.
6 We have Mr. Mike -- Michael Halpin. He is the
7 engineer on the project.

8 We have Mr. Cleve Holladay who is our
9 meteorologist, and we have Ms. Tammy Egan, who is
10 from our ambient air monitoring section in
11 Tallahassee.

12 There will be about fifteen-, twenty-minute
13 presentations of various items that will be with
14 Mr. Halpin, and Ms. Egan from the ambient air
15 monitoring, and then you will hear from Mr.
16 Beason. So, Mr. Beason, Mr. Halpin and Ms. Egan.
17 I'll get that straight.

18 And then we will have questions and answers.
19 If you have any comments, again, please fill out
20 the card in the back with your name and there will
21 be other information.

22 Okay. Mike. Or, Doug, I'm sorry. Doug.

23 MR. BEASON: I'll be real brief. I
24 certainly don't mean to get off on the wrong foot
25 here, and this isn't really the opportunity for

1 the lawyers to run the show or the lawyer to run
2 the show.

3 Basically what I have been asked to tell the
4 people that are here is that the department,
5 subsequent to the publication of the intent to
6 issue the permit, the department has received, I
7 believe, five or six separate petitions requesting
8 a formal administrative hearing concerning the
9 department's proposed agency action.

10 And the intent to issue, without getting
11 into the minutia of the subtleties of
12 administrative law, let's just be clear that the
13 intent to issue reflects proposed agency action on
14 the part of the department.

15 It is not a final decision. There has been
16 no permit issued. There will not be a permit
17 issued until a formal evidentiary hearing is
18 conducted. All of the parties involved will have
19 the opportunity to present evidence, to present
20 testimony, to offer exhibits into evidence, to
21 make their arguments, both as to the facts and as
22 to the law as to why they believe the permit
23 should not issue.

24 At this time an administrative law judge has
25 been assigned by the Division of Administrative

1 Hearings. The administrative law judge is not
2 affiliated by the department. He is in no manner
3 bound by the agency's decision. He is going to
4 act as a trier of fact.

5 The best analogy would be that the
6 administrative law judge acts in the same role as
7 a judge does in a nonjury trial. There will not
8 be a jury in an administrative hearing. Rather,
9 it will be a judge who will take in all the
10 evidence and evaluate the testimony and the
11 evidence and make a decision, make a
12 recommendation to the department after the
13 evidentiary hearing has concluded.

14 That decision would be reflected in what is
15 called a proposed recommended order. That
16 recommended order is entered by the administrative
17 law judge, is then sent to the department.

18 All of the parties are then allowed to file
19 what are called exceptions to the administrative
20 law judge's recommended order. Those exceptions
21 would basically argue why the parties -- certain
22 parties may agree with the administrative law
23 judge's findings and conclusions, or they may not.

24 And to the extent that they do not agree
25 with the recommendation and finding of the

1 administrative law judge, they will then have the
2 opportunity to argue to the secretary, Mr. Struse,
3 (ph) why they believe the administrative law judge
4 reached an erroneous conclusion.

5 After reviewing all those documents, the
6 department will then enter a final order. And the
7 final order may approve or it may deny the
8 requested permit.

9 It is certainly not a foregone conclusion.
10 It is a -- the administrative hearing is an
11 adversarial process, the means available to all of
12 the parties for obtaining discovery are the same
13 types of means that are available to parties in
14 civil litigation under the Florida Rules of Civil
15 Procedure.

16 It is a process by which, hopefully, we
17 reach the right decision, and hopefully the
18 concerns that have been expressed, will be
19 expressed and have been expressed earlier will be
20 addressed in one fashion or the other.

21 That administrative hearing is going to be
22 conducted in Brevard County. Unfortunately, I
23 know -- I was told today that the hearing has been
24 set for August 23rd, 24th and 25th of this month.

25 UNIDENTIFIED SPEAKER: August.

1 MR. BEASON: Excuse me. August.

2 Unfortunately, I don't know the exact
3 location. I can find that out. If any of you
4 want to write it down, my phone number in
5 Tallahassee is (850) 921-9624.

6 And I know that Mr. Rowe did not -- and I
7 had an obvious difference of opinion regarding the
8 public notice. But, in much the same manner that
9 I've attempted to answer questions and phone calls
10 and correspondence that he's directed to the
11 department, I will do so if you have questions or
12 comments.

13 The process right now, at least at this
14 point in time is the process that's been handled
15 by the engineers. Most of the gentlemen up here
16 have formal education, formal training and several
17 are engineers.

18 It hasn't been a lawyer process to date. I
19 haven't really been involved in the process at
20 all. I only really become involved after the
21 petition for administrative hearing was filed.

22 So, I can't answer a lot of engineering
23 issues, which I'm sure a lot of you may have, but
24 if you have legal questions or procedural
25 questions about how to -- if you want to

1 participate in an administrative hearing, if you
2 want to be a party, if you want to be able to
3 attend the hearing and offer a public comment.

4 One thing I should note is that the -- if
5 requested, the administrative law judge will take
6 public comment, and that basically is in the form
7 -- it's not testimony in the sense that a witness
8 is called by a party, but rather people who live
9 in the area who think they might be affected by
10 the decision are afforded the opportunity to come
11 in and make statements on the record that the ALJ
12 will take into consideration and make known that
13 their concerns expressed, they will make those
14 known to the secretary.

15 So, even though you may not want to
16 participate as a party to the adversarial
17 proceeding, that does not mean you do not have the
18 opportunity to come into the proceeding and offer
19 a public comment or your own comment concerning
20 your feelings about the proposed permit.

21 Does anybody have any questions?

22 MR. LINERO: I do. My name is Al Linero.
23 I'm an administrator of the new source review
24 section. I just wanted to ask Doug, if you know
25 if the administrative hearing itself will be

1 public noticed, or how can we make sure that the
2 word gets out so that folks can participate in
3 that, if that's something that --

4 MR. BEASON: There's no specific requirement
5 that notice be published in a local newspaper or
6 broadcast on radio or other media.

7 Generally what happens is that when a court
8 reporter or someone else is interested, either
9 county government or local government, is made
10 aware that this type of proceeding might occur,
11 they put in a phone call to my office and say,
12 gee, we'd like to know if this matter is set for
13 hearing or when this matter is set for hearing.
14 Please give us a phone call and let us know what's
15 going on.

16 And, again, I'll be more than happy, if
17 people have questions about when the hearing is or
18 where it's located or other matters involving the
19 conduct of the proceeding, just give me a phone
20 call and we'll get back to you.

21 But specifically, and that's perhaps where
22 Mr. Rowe and I may have had a little divergence of
23 opinion, is that there's -- at least as to the
24 administrative hearing, there's no specific
25 requirement that it be published in a particular

1 newspaper at a particular time.

2 It's generally the intent to issue is what
3 places parties on notice of the pendency of the
4 proceeding. And once they know that the agency is
5 proposing action on the permit, it's somewhat
6 incumbent upon them to stay current.

7 One way they can stay current is simply by
8 giving us a phone call or requesting -- in fact,
9 you can write, and if you want notice that a
10 hearing has been scheduled, you can write my
11 office and -- all of these documents are public
12 record.

13 I can fax you a copy of the notice of public
14 hearing. I can provide you with any copies of
15 documents that you want. It's all public record
16 and it's just a matter of comment.

17 I can give you my E-mail address or you can
18 contact anyone with the Division of Air Resources
19 like Mr. Cozlo.

20 MR. LINERO: We'll send out a reminder --
21 we'll send out a reminder at least a month before
22 this hearing takes place to the list of people who
23 have been maintaining contact with us by E-mail at
24 the very least. I think that there's probably a
25 good ten, fifteen of those.

1 And we will E-mail the county commission,
2 let's say a month, and maybe we'll send them a
3 reminder a couple of weeks ahead of time as well.

4 So, it sounds like we won't be publishing
5 this in the newspaper, but we will -- but we will
6 get the word out, and I think anybody who wants to
7 know about it certainly will know about it.

8 MR. COZLO: Okay. Thank you, Doug.

9 Our next speaker is going to be Mike Halpin.
10 He's going to update the mission's info from the
11 last meeting we had here. I guess it was about a
12 couple of months ago or so.

13 Okay. Mike.

14 MR. HALPIN: Give me just a minute to try to
15 get this computer thing set up.

16 There were a few overheads that were
17 presented at the last meeting in March that are
18 now in need of being updated. And essentially I
19 wanted to do that for the record, so you'll see
20 those significant changes in a few overheads I
21 want to show.

22 Additionally, I want to talk about --
23 between Tammy and I, we will talk about a couple
24 of the significant issues that were raised at the
25 meeting back in March. We will talk about them to

1 some degree, those being the variety -- a number
2 of people requesting to limit the fuel oil --
3 amount of fuel oil to be consumed by the proposed
4 plant.

5 And secondly, request for what is termed
6 preconstruction ozone monitoring.

7 I believe I did mention at the last meeting
8 that the applicant, just prior to that meeting,
9 had reduced the requested amount of oil from 1500
10 hours per combustion turbine to 1000.

11 So, this slide was incorrect at the time,
12 and I'm trying to show that here. 1500 is
13 underlined and 1000 is bold. That's really all
14 that was incorrect with this particular slide.

15 The pollutants, tons per year -- I'm sorry.
16 Kim, thanks for handing those out. I forgot to
17 mention that. She has copies of everything you
18 see here.

19 The pollutants have been updated and
20 essentially in the far right-hand column, these
21 are the updated pollutant numbers in tons per
22 year. And, by and large, in every case, they have
23 been reduced from what was presented back in
24 March, largely because of the reduction in oil
25 consumption by the applicant from 1500 to 1000

1 hours.

2 Again, this was a slide that I had showed to
3 attempt to compare this proposed power plant to
4 three existing plants. Again, to remind you,
5 those three existing plants were OUC Indian River,
6 FPL Cape Canaveral and OUC Stanton.

7 They are all approximately the same size as
8 the proposed Oleander plant, however, there are
9 different technologies and different fuels here at
10 play.

11 What I wanted to show is actual emissions
12 from 1997 for those three facilities and now the
13 proposed emissions from this facility.

14 This particular slide is showing the
15 predicted increase in impacts on ambient air
16 quality. The far right-hand column, in
17 particular, is the one that has been revised. And
18 again, largely in the downward direction, and
19 predominantly as the result of the reduction in
20 oil consumption.

21 If you have questions on that, I think Mr.
22 Holladay can probably address those.

23 I'm going to leave that up for a moment
24 while I talk about the two issues that I had said
25 that were raised in the prior meeting that I think

1 deemed some discussion.

2 The first one was a number of people here
3 had requested that the department further reduce
4 the amount of oil consumption on the proposed
5 plant and, in particular, there was discomfort --
6 obvious discomfort that the applicant could, if
7 the applicant wished, burn nothing but oil.

8 I think that was an underlying concern. As
9 a result of those concerns, what we have done is
10 written into what -- a draft permit which has been
11 prepared the following limitations.

12 And the significant limitation that we have
13 written into the permit is that the amount of oil
14 consumed on a heat basis or BTU basis must be less
15 than or equal to the amount of gas consumed on the
16 same basis, on a BTU basis, over any twelve-month
17 period.

18 So, what that does is, that insures that the
19 applicant or the power plant cannot or will not
20 burn 100 percent oil all the time. At the most,
21 the plant could burn up to fifty percent of its --
22 of the time it could be burning oil.

23 And what I want to point out on that point
24 is that when the issue was brought up, what I did
25 do was, I took a look at how we have permitted

1 other plants in the state, and what I've found is
2 that in general every -- I think I can say that
3 every permit that I found where the plant had in
4 the permit the opportunity to burn oil, there was
5 no requirement that the plant must burn any gas.

6 So, in other words, the plant could burn
7 nothing but oil if the plant wished to.

8 That is not going to be the case here and
9 that, again, was largely because of the concerns
10 that were attempting to be addressed.

11 It's my belief that that particular
12 requirement probably is one of the more stringent
13 ones that we have on any facility in this state
14 that can burn gas and oil.

15 The second issue that I wanted to talk
16 about, and Tammy will talk about it in more
17 detail, there was a lot of -- a number of people
18 that had requested preconstruction monitoring, and
19 the majority of those people mentioned ozone as a
20 concern.

21 And Mr. Linero, as I recall at the meeting
22 said that we as the department would take a look
23 at that and see what we could and could not do in
24 that regard to see what our regulations would
25 allow us to do, what our authority was.

1 What our finding is, is that our authority
2 is limited in this area, and it's very specific in
3 the rule. What the rule says, and I'll just try
4 to put it in layman's terms, is that if the
5 emissions from the facility, the proposed
6 emissions or impacts are below a certain level, a
7 specified level -- it's in black and white in a
8 table.

9 If they are below this level, then
10 preconstruction monitoring -- let me restate that.
11 Then the project shall be exempt from
12 preconstruction monitoring.

13 So, our read on the rule says that this
14 project is exempt from preconstruction monitoring,
15 and it's because the impacts and the emissions are
16 below the predetermined thresholds that are in the
17 rule.

18 So, unfortunately, we do not have the
19 authority to require the applicant to do
20 preconstruction monitoring. What we have done,
21 though, in the technical evaluation which we have
22 written -- and if you don't have a copy and would
23 like one, we can certainly get you one.

24 We have requested that the applicant
25 consider ozone -- in particular, ozone monitoring

1 in the area and I believe that the applicant has
2 done that, and I think that the applicant has --
3 has stated that it's consistent with the
4 department data, which really minimizes a need to
5 do it.

6 Remember, they are not required, and it
7 minimizes the need. So, that kind of walks into
8 what Tammy is going to talk about, as she is going
9 to try to talk to each of us about the ozone
10 monitoring system we have in the State of Florida
11 and in particular in this area, how it works.

12 MS. EGAN: As was said, I wanted to provide
13 a little information about Florida's ozone
14 monitoring network. And to start with, just to
15 show you what it looks like, here's the State of
16 Florida in green. Each of the black dots
17 represent an ozone monitoring site in the State of
18 Florida.

19 We've got 44 around the state, and if you'll
20 notice, they are fairly concentrated towards the
21 coastal region. The federal regulations require
22 that any urban areas, as defined by the Census
23 Bureau with 200,000 people or more has to have two
24 ozone monitors.

25 So, people like to live in the coastal zone,

1 the coastal areas of Florida, so that's where most
2 of our ozone monitoring is going to end up being.

3 The Brevard County area was expected to be
4 over 200,000 people when the 1990 census came out,
5 so in 1988 we set up the two monitors that are
6 here in Brevard County and Cocoa and Palm Bay.

7 Each monitor that goes into an area has a
8 specified job. The first monitor that goes into
9 an area is required to be a maximum concentration
10 monitor. That means we are required to know where
11 the ozone concentration is likely to be the
12 highest in any given area.

13 In the coastal areas of Florida, due to the
14 weather patterns that tend to enhance ozone
15 production, that is going to be on the southern
16 side of the city, on the coastal side of the city.

17 So, in the east coast, that's going to be on
18 the southeast side.

19 The second monitor that goes into an area is
20 going to be a population monitor. We are not
21 going to be looking for a second place with very
22 high ozone concentrations, but rather a place
23 where there are going to be a lot of people, and
24 look at the nominal exposure that people are going
25 to be living with.

1 One of the things that you'll notice, if you
2 look at the ozone monitors throughout Florida is
3 in a fairly broad geographic region. They tend to
4 track each other well.

5 This is data from May of 1996, just picked
6 because May tends to be the month that our ozone
7 levels are relatively high. This is looking at
8 the data maximum eight-hour averages, which is
9 what our standard currently is based on.

10 You will notice that when the ozone goes
11 down in one area, it will be going down in other
12 areas. This is looking at a four-county area,
13 Brevard, Orange, St. Lucie and Volusia Counties.

14 Throughout the entire month, those monitors
15 tend to track each other fairly well.

16 The two monitors that you will see often on
17 the top, the light blue and the light yellow lines
18 represent the two monitors in Orange County. That
19 is the largest urban area that we graph and it's
20 the furthest inland, likely to be the highest
21 monitors that we'd see.

22 This is looking at data from May of 1997.
23 You can see that it doesn't really matter which
24 year you look at, the monitors in those same four
25 counties will track each other fairly well.

1 And again, 1998. Even though 1998 is a
2 superlative year when it came to ozone in Florida,
3 the monitors tracked each other continually very
4 well. And again, the two highest monitors tended
5 to be the two that are in the Orlando area.

6 Again, this is the State of Florida. What
7 I'm going to show you now is an animated graphic.
8 It will take the hourly ozone values and display
9 it temporally and graphically throughout the day.

10 This is going to be from May 1st of 1998.
11 And what I'm putting this map up for is to show
12 you where our current monitors are and where they
13 basically were in 1998.

14 The map itself will be showing every monitor
15 that ever existed in Florida, so there will be a
16 lot of little black triangles on this map. The
17 map itself was put together for me by Region Four,
18 which is the southeastern region of EPA, at my
19 request, to look at the ozone values that we
20 experienced here in Florida last year.

21 Down here at the bottom you'll see the time.
22 This is three o'clock in the morning, so the sun's
23 not quite up yet. By the time just before sunrise
24 occurs, you'll see the state is green, meaning the
25 levels are below 50 PPB, and the background is

1 estimated between 35 and 45, so the nighttime
2 scavenges occurred, and there's very little ozone
3 out there.

4 Now that the sun's come up, you're looking
5 at ten or eleven. You'll see that within an hour
6 or two very broad regions are the state are moved
7 from there, those background levels, to levels
8 somewhere between 51 and 65 PPB throughout the
9 day.

10 They will stay there for most of the day.
11 This is three, four in the afternoon. Some of the
12 areas are starting to get lower levels of ozone
13 and it won't be until six or so that the
14 scavenging will begin to occur throughout the
15 entire state.

16 Our highest values for that day were
17 occurring over in the Pensacola area, not terribly
18 unusual.

19 Now that the sun's gone down you can see,
20 throughout the entire state, the values dropped
21 back below fifty.

22 I'll let this animation run through one more
23 time now that you know what you're going to be
24 looking for. You'll notice for the southeastern
25 region the largest concentrations are going to be

1 over near Texas. They were already being affected
2 by the fires that were occurring in Mexico and
3 Central America.

4 Again, you've got a little bit of ozone left
5 from the previous day that's going to be scavenged
6 out as you head towards morning.

7 Here at six a.m. you've hit basically the
8 lowest level of the day and shortly, as the sun
9 will come up, you will see that ozone production
10 start for the day, beginning in the southwest part
11 of the state down near Sarasota and quickly
12 spreading throughout the north central areas.

13 Between eleven and two -- if you've lived in
14 Florida, you know that that's when your told
15 you're going to get the greatest amount of
16 sunshine, and be most careful with the sunshine
17 exposure. It's also going to be the highest
18 production time for ozone because ozone does
19 require sunlight for its own production.

20 What you are looking at now is a graph from
21 1989 to 1998, which is basically the data that we
22 have for this area. I think I went forward a
23 slide. Here we go.

24 Starting with Cocoa Beach, the navy blue
25 dots represent that fourth highest time, eight-

1 hour daily maximum ozone concentration. That is
2 the parameter with which the standard is
3 associated.

4 You'll see from year to year it bounces
5 around a little. Three year into this, the first
6 time we could take a three-year average in 1991,
7 you'll see the little pink line begins. It's
8 labeled the design value.

9 That is the value which will be compared to
10 the standard. The standard is indicated on this
11 graph by the red line at 85 PPB. What you'll
12 notice is that since 1991, the design value for
13 Cocoa Beach has always been under the standard.

14 You will also notice that the design value
15 is more stable than the year-to-year fourth
16 highest high. That was part of why the ozone
17 standard was changed.

18 This is the Palm Bay data, same time period.
19 And again, you'll notice that the design value,
20 the value which is compared to the standard, stays
21 well below the annual air quality standard.

22 This is looking at all the design values for
23 the areas that I've been talking about, Brevard,
24 Orange, Sanford and Volusia Counties.

25 You're looking at the three-year average,

1 starting in 1992 to '94, and ending with the '96
2 to '98 data. Again, the red line indicates where
3 the standard is, and you'll notice that all of
4 those values are below the standard.

5 From year-to-year you'll see a little
6 fluctuation. And for all of these sites you will
7 see that the 1996 to '98 three-year average is
8 higher than it was previously.

9 But again, last year was a superlative year
10 for ozone. We had, as you know, if you were here,
11 plenty of fires that created a lot of ozone. The
12 fires that burned in Florida, on the days that
13 they were burning, produced the precursor gases,
14 nitrogen oxides and volatile organic which ozone
15 needs to produce itself in quantities that dwarfed
16 what the people did in terms of contributions from
17 power plants and other permitted sources, as well
18 as mobile sources in the form of vehicles.

19 The EPA has a natural events policy which
20 allows us to describe which days have been
21 affected by natural events such as fires, and
22 those days which we have requested EPA to review
23 for the Florida fires to exclude from this
24 analysis have been verbally approved. We're still
25 waiting on a written approval.

1 This data represents that information, that
2 data having been removed from the data set. But
3 this is what we expect the decision is going to be
4 made on, at least for 1998.

5 The final decision for attainment status
6 will be made on the '97, '98 and '99 data.

7 I'm giving you a couple of URL's if you want
8 additional information. The first is DEP's ozone
9 website, and on our website you'll find the eight-
10 hour and one-hour maximums for each previous day.
11 The update is five days a week and we're hoping to
12 have this automated to update seven days a week
13 shortly.

14 The other is EPA's Air Now Web Page. The
15 Air Now Web Page will give you an animation
16 similar to the one I showed you for May 1st of
17 last year, but it will be real time for each day.

18 We're submitting data currently to EPA to
19 participate in that program, and they are having
20 some technical difficulties. Hopefully they will
21 get those straightened out soon and our web sites
22 will be published.

23 If you go to the Air Now web site currently
24 and look for the southeast, it will just say
25 "coming soon."

1 MR. COZLO: Thank you Tammy. Thank you,
2 Mike.

3 All right. Now, if you will, if anybody has
4 any questions they want to ask as to what has been
5 presented, again, we have the cards back there for
6 people to put their names on there.

7 One of the reasons, it will be orderly, and
8 secondly, are needed for the recorder, the names
9 of the folks that want to speak.

10 And Ms. Tober's coming around to pass them
11 out if anybody wants to.

12 MS. TOBER: I think this is it. Two left.

13 MR. COZLO: All right. Mr. Doug Sphar. Is
14 he here?

15 Mr. Clarence Rowe. He's gone.

16 Ms. Marjorie Derrick.

17 MS. DERRICK: Marjorie Derrick. I'm
18 affiliated with the Sierra Club, but I'm not
19 representing them. I'm representing myself.

20 When I first became involved in the Oleander
21 project it was because of the issue of bird
22 migration and it really concerned me because the
23 proposed stack row would lie on an east-west axis
24 across the Atlantic coast migratory bird corridor.

25 I felt this would present a major hazard to

1 migrating birds that fly through here by the
2 millions. I have contacted a large number of
3 environmental organizations and the Fish and
4 Wildlife Service to see what I could find on the
5 subject.

6 And at this point there seems to be no
7 evidence of harm done to migrating birds by power
8 plant emissions.

9 However, my research has turned up another
10 problem, and that is the problem of bats. I would
11 like to read an excerpt from a news release that
12 was put out by the People For Ethical Treatment of
13 Animals on February 26th of 1998 in Dallas.

14 After almost four years of campaigning it
15 began when PETA removed hundreds of charred bodies
16 of birds and bats from oil and gas fields in the
17 western United States, the Exxon Corporation has
18 finally capped all but a few of its open exhaust
19 treater stacks.

20 In 1994, PETA investigators toured oil and
21 gas fields in five states and found that birds and
22 bats fall or fly into the open treater stacks and
23 cannot escape. They die there of starvation or
24 are overcome by fumes or are burned alive when the
25 units ignite.

1 Some units become clogged with animal parts
2 and must be blasted out with high-pressure hoses.
3 How would this apply to Oleander? The key words
4 are "open stacks."

5 This is the element Oleander has in common
6 with Exxon. Brevard County is part of the
7 distribution range for the eastern pipistral(ph)
8 bat, the big brown bat, the big-eared bat, the
9 Seminole bat, the evening bat and the Brazilian
10 three-tailed bat.

11 Occasional bats include the eastern redneck
12 and the hoary bat. That is seven permanent
13 resident species and two occasionals.

14 There is an effort being made to encourage
15 bats as a natural means of insect control. Bat
16 houses are becoming a part of park facilities as
17 well as residences and the air station at Cape
18 Canaveral is making a deliberate effort to
19 introduce them because they are trying to minimize
20 their use of pesticides.

21 Open stacks like Oleander's could represent
22 shelter to bats. They like to sleep in dark cave-
23 like places and the congregate in large colonies.
24 Also, they move into deep recesses of caves away
25 from entrances.

1 If a colony were settled in a stack and the
2 turbines were turned on, it seems there would be
3 very little chance for them to escape.

4 The irregular schedule of usage would not
5 build up any awareness in the bats of the stack's
6 danger. It seems obvious whole colonies could be
7 wiped out, considering the extreme temperatures
8 and the velocity of the emissions, would there
9 even be any evidence of this destruction
10 afterwards.

11 Exxon took four years to address the treater
12 stack problem, though the solution was simple with
13 the application of caps over the stacks. Whether
14 that would work with the width of Oleander stacks
15 and the concentrated hurricane force velocity of
16 the emissions is another issue.

17 I would argue the issue needs to be
18 addressed in view of the potential threat to our
19 bats.

20 I would like to ask you to include it in the
21 permitting process, especially in view of the
22 number of power plants that are looking at our
23 area to locate.

24 MR. LINERO: Do you want to submit the
25 document?

1 MS. DERRICK: Pardon.

2 MR. LINERO: Do you want to submit the
3 document itself?

4 MS. DERRICK: You can read it.

5 MR. LINERO: Certainly. We are on the
6 record, as well.

7 MS. DERRICK: Okay.

8 MR. COZLO: Thank you, Ms. Derrick.

9 MS. DERRICK: You're welcome.

10 MR. COZLO: Mr. John Derrick.

11 MR. DERRICK: I am John Derrick also of
12 Melbourne Village. My two concerns, and I'm not
13 well-read-up on what has been done with experts
14 and the engineers here, the presentations, they've
15 been excellent, but I am here on two points.

16 One is that of decibel noise levels. I can
17 relate as being on a noise committee with
18 Melbourne Village, which is a small residential
19 area of about 300 sites southwest of the Melbourne
20 International Airport.

21 They had a problem with Northrop-Grummond on
22 turbine noise, and this was resolved after about
23 two years of complaints, and almost civil action
24 and court action between the Village and Northrop-
25 Grummond. And Northrop-Grummond did tone down the

1 turbine noise.

2 And I see this as -- I don't know whether 90
3 DB is the proper maximum level, but people cannot
4 -- could not get their sleep in that area, so
5 Grummond did something about it.

6 If this Oleander plant is to be placed right
7 here where we are now maybe it could be instead
8 moved to an area like they used to use -- or
9 install airports many years ago, they used to put
10 them on the outside areas of cities because they
11 didn't want the planes flying over the city,
12 making noise and having risk of crashing into
13 buildings of the city and hurting people.

14 Orlando, as we all know, has quite a power
15 plant array over there to the southeast part of
16 Orlando. That would perhaps take it out of
17 Brevard County, but if this is a worthwhile plant,
18 then maybe it could be located elsewhere to
19 acceptable noise levels for everybody concerned.

20 The next problem I have is one of air
21 pollution. I believe your technical studies would
22 reflect that there's no problem there. However, I
23 am an asthmatic. I have had considerable problems
24 with bronchitis and I may have to leave this area
25 as well.

1 Clean air is what I'm talking about. If we
2 have the Oleander plant come in here and perhaps
3 as many as 13 to 15 more plants like it, if they
4 sit right in this axis of where it's cheap for
5 them to get their fuel, that's fine for them, but
6 what is this going to do to the air of this
7 particular area.

8 And I hope that you keep a close look on
9 that because of the high pollen, asthma problems a
10 lot of people do. OSHA requires that we take care
11 of our workers and our people, and I think that
12 they should keep a lid on this problem.

13 Thank you.

14 MR. COZLO: Thank you, Mr. Derrick.

15 The next speaker, and I guess the last one
16 is Ms. Sharon Barridge.

17 MS. BARRIDGE: It's kind of awkward to talk
18 to you all. I'm a homeowner that goes out every
19 single day and I ride my bike and I look at the
20 sky and I'm about across from Florida Power &
21 Light.

22 And, if you go out early in the morning -- I
23 mean, you all know more about the area than I do,
24 but every day -- well, not every day, but the
25 amount of smog that I can see in the sky upsets me

1 almost every day. And I'm riding my bike and, you
2 know, I've got to do something about this. I
3 can't just lay back and play.

4 So, when the Oleander came out and here's
5 another polluter coming to our skis with, as
6 Oleander would like us to say, "Oh, my goodness,
7 we're going to employ twelve people."

8 Well, that certainly doesn't mean too much
9 to me, or I think the economy of this area, and
10 they're going to employ people to build this
11 wonderful power plant. Well, from what I
12 understand, it's a highly technical skill to build
13 this power plant, and I wonder how many people in
14 this county have that high technical quality.

15 And even if all of them came, it wouldn't be
16 worth it to me, you know, from the county. But
17 the tons of pollution they are going to put in the
18 air is just over the top for me.

19 I look at it -- I mean, you all have all
20 seen it. I mean, nobody in here's a kid. You've
21 all seen our horizons are a totally different
22 color than our sky, and the density of things you
23 have to look through in the air -- it's there. I
24 mean, you know, it's getting worse.

25 I'm fifty years old and it seems year-to-

1 year, when I'm looking at the horizon I'm seeing
2 more and more kind of a gray-brown-pink color, and
3 isn't that smog.

4 And I don't want Oleander and I want to do
5 what's right, and if anybody wants me on their
6 mailing list for anything I can do to protect the
7 environment, like get the cars inspected again, I
8 want to do something because I do care.

9 Thanks. Oh, sorry.

10 MR. COZLO: All right.

11 MS. BARRIDGE: And all the people that left
12 earlier, they have given their hearts to fighting
13 for -- for our environment and it's really
14 disappointing to them to come and see hardly
15 anybody here.

16 The only reason I know about it is because I
17 am in contact with some of the people that are the
18 most concerned. So, if there's something I can do
19 to help the environment, my name and address is on
20 there and I care.

21 Thank you.

22 MR. COZLO: Thank you, Ms. Barridge.

23 I guess because we have the small number of
24 people here, I guess nobody else has any further
25 comments on this. And all these folks have given

1 their presentations.

2 We are about an hour early here, but --

3 Yes, ma'am.

4 UNIDENTIFIED SPEAKER: I just wanted to ask
5 one question on this notification process, since
6 it seems rather controversial.

7 Is there a way to be contacted if you wanted
8 to get that corrected so it would be published.

9 MR. COZLO: In reference to --

10 UNIDENTIFIED SPEAKER: In reference to
11 meetings like this, hearings like this, who would
12 we contact to have that kind of thing if they
13 require it? Would that go through DEP or a
14 legislator or what?

15 MR. BEASON: I'm not sure I understand the
16 nature of your question. The notice that was
17 published here is the type of notice that's
18 required --

19 UNIDENTIFIED SPEAKER: I'm saying if we want
20 to change the requirement about --

21 MR. BEASON: You would contact your
22 legislator.

23 UNIDENTIFIED SPEAKER: Okay. Okay. Thank
24 you.

25 MR. COZLO: It's a legal change to do these

1 things.

2 UNIDENTIFIED SPEAKER: Okay.

3 MR. COZLO: This is being done by the book.

4 UNIDENTIFIED SPEAKER: Sure.

5 MS. BARRIDGE: Your commissioners will send
6 you things that are in the commission agenda.

7 I wouldn't have known about this if I wasn't
8 in contact with the people that walked out.

9 MR. BEASON: I'm sorry. I didn't mean to
10 alienate the others, the people that left. But I
11 was talking to Mr. Linero and there's a
12 possibility we will look into it.

13 UNIDENTIFIED SPEAKER: That would be a big
14 help because it is such an issue of such public
15 interest.

16 UNIDENTIFIED SPEAKER: The last meeting --
17 the last meeting we scheduled, you know, we
18 scheduled it, you know, on our own and we
19 advertised and --

20 Mike, it was in how many newspapers?

21 MR. HALPIN: Well, we only put it in the
22 Orlando Sentinel ourselves.

23 MR. LINERO: We put it in the Orlando
24 Sentinel and that we did on our own.

25 Now, what happened is that once we issued

1 the intent, it's up to the applicant to publish it
2 in a local newspaper of general circulation. They
3 did that, and I guess they chose Florida Today.
4 Maybe -- maybe it would have gotten wider
5 distribution had it been in the Sentinel.

6 But we will do this: We will publish in,
7 you know, at least both newspapers the date of
8 this public -- of this administrative hearing
9 before the administrative law judge, and there
10 will be a forum, as Mr. Beason described, where
11 the group that was here will actually have the
12 opportunity to tell -- to provide their comments
13 to the person who's actually taking the testimony
14 and who can provide the department's secretary
15 with a recommended order.

16 So, I'd say, you know, they will have their
17 chance again, and we'll see to it that -- we'll
18 notice the hearing as well, which isn't a
19 requirement. We want to do this and, you know, I
20 just apologize about -- about this, but we did E-
21 mail the people that were -- that were the most
22 interested in this.

23 I mean, there were a number of people that
24 peppered us with questions, did their E-mail, and
25 to whom we responded directly.

1 And I firmly believe that most people really
2 did know that this meeting was going to take
3 place. They really did.

4 UNIDENTIFIED SPEAKER: I think one thing
5 that came up with the counties turning it down,
6 that might have made people feel the hearing
7 wasn't going to take place.

8 We started calling around trying to find out
9 if it was. It was awfully hard to get
10 information. We had to make, I guess, eight or
11 ten phone calls and the times were changed -- I
12 mean, all different kinds of times we were told,
13 that kind of thing.

14 UNIDENTIFIED SPEAKER: Forgive me. I was
15 actually out of the country for part of the last
16 month, and you said the county --

17 UNIDENTIFIED SPEAKER: The county
18 commissions have turned down the permit.

19 UNIDENTIFIED SPEAKER: Have turned down the
20 permit?

21 UNIDENTIFIED SPEAKER: Yes.

22 MR. COZLO: Yes, ma'am, please state your
23 name for the reporter, please.

24 MS. AMELLO: It's Gwendolyn Amello, A-m-e-l-
25 l-o. And I'm the communications consultant, local

1 communications consultant with the Oleander power
2 project.

3 Before we get to what happened at the
4 commission, I just wanted to say that the first
5 meeting that DEP scheduled here, we advertized
6 with a quarter-page ad in Florida Today, and I
7 asked people if they had seen the ad and nobody
8 saw it, so we didn't bother to spend another
9 \$3,000 to put in an ad in for this particular
10 meeting because nobody said that they saw it and
11 it really was a waste of money.

12 I mean, as far as what happened at the
13 county commission meeting yesterday, and this is
14 because Florida Today published a completely
15 erroneous article. They did not deny anything
16 yesterday. The only thing that they did not do
17 was give us a determination of vested rights based
18 on a moratorium that they have placed on power
19 plant permits.

20 They still have our application. They still
21 have all the fees we have paid for the
22 application, and this moratorium runs to August
23 12th. So, nothing has been denied as far as the
24 county is concerned.

25 And I sent letters out today to all EDC ph)

1 members and all chamber members, both
2 organizations of which we are members to let them
3 know that.

4 I talked to Florida Today and they are going
5 to try and correct that, too. I didn't think that
6 was fair from both sides, actually, for something
7 like that to appear.

8 But, the project has not been denied
9 anything as far as the county goes. It was
10 basically a legal determination of vested rights
11 that they did not determine that we have. Just,
12 you know, for your information.

13 MR. COZLO: All right. Well, I guess that
14 -- since there are no other comments, we're going
15 to -- Yes, sir, Mr. Derrick.

16 MR. DERRICK: Was there ever an
17 environmental impact statement done? Maybe this
18 was way a long time ago.

19 MR. COZLO: I think it was addressed in the
20 first meeting we had here. That was an issue that
21 was brought up, and I don't know if anybody made a
22 statement on that.

23 MR. LINERO: Let me address that. No, an
24 environmental impact statement was not done.
25 That's a very specific legal document that can be

1 required for a federal -- certain federal
2 permitting actions.

3 We did an impact assessment on the air
4 quality. I just want to make sure that we don't
5 call that an environmental impact statement,
6 because it is not that.

7 MR. COZLO: I guess, I'll just -- one more.
8 Yes, Ms. Derrick.

9 MS. DERRICK: I'd like to ask the scientists
10 here, when we were looking at that graph that you
11 were -- for the ozone layer, I thought I heard you
12 say that the pinkish line was the average and that
13 we would --

14 MS. EGAN: It's the three-year average.

15 MS. BARRIDGE: Okay. And that we were below
16 it. But when I was looking at the dark dots, it
17 looked like it was just as much above it as it was
18 under it.

19 MS. EGAN: Those are the single-year
20 figures, and it will bounce around. The standard
21 is based on the three-year average of that, so you
22 can have one year that's up, as long as when you
23 average it with the other two years you stay below
24 the red line.

25 One of the things that EPA is trying to

1 address when they changed the standard was to make
2 what we make determinations on a more stable
3 entity, so that we didn't bounce up and down like
4 that does from year to year.

5 When you take that three-year average it
6 smoothes it out some, but if your air were truly
7 bad, you'd stay on the other side of the line.
8 Florida has always been very near the ozone
9 standards.

10 MR. COZLO: I'm going to just make one more
11 call and then we're going to close out the
12 session.

13 Going once, going twice -- this session is
14 now closed. This meeting is closed.

15 Thank you very much for coming.

16 (Thereupon, the meeting was concluded.)
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C E R T I F I C A T E

1 THE STATE OF FLORIDA,)


2 COUNTY OF SEMINOLE,)

3 I, DALE E. BRAGG, CVR, Court Reporter and
4 Notary Public, State of Florida at Large,

5 DO HEREBY CERTIFY that the above-entitled
6 and numbered cause was heard as hereinabove set out;
7 that I was authorized to and did transcribe the
8 proceedings of said hearing, and that the foregoing and
9 annexed pages, numbered 1 through 49, inclusive,
10 comprise a true and correct transcription of the
11 proceedings in said cause.
12

13 I FURTHER CERTIFY that I am not related to
14 or employed by any of the parties or their counsel, nor
15 have I any financial interest in the outcome of this
16 action.

17 IN WITNESS WHEREOF, I have hereunto
18 subscribed my name and affixed my seal, this 28th day
19 of May, 1999.

20
21 
22 DALE E. BRAGG, CVR, Notary Public
23 State of Florida at Large

24 My Commission Expires: 2/18/2000
25