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January 13, 1992

RECEIVED

JAN 15 1992

Secretary Carol Browner
Florida Department of Environmental Regulation
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Division of Air
Resources Management

Dear Secretary Browner:

This letter reaffirms the request of the City of Jacksonville that you conduct an investigation into our allegations that AES Cedar Bay/Seminole Kraft Corporation misled the Siting Board, your Department and the City concerning its co-generation project in Jacksonville. It also addresses Seminole's denials in their attorney's letter of January 7, 1992. After reading that letter carefully, I am confident you will agree that it confirms the City's allegations -- the applicants misled the Siting Board and the parties to the site certification process.

In the January 7, 1992, letter, Seminole states that "as soon as Seminole Kraft knew that it might be possible to eliminate the recovery boilers entirely, but that some new source of steam might also be needed, this issue was discussed with [your] Department and the City of Jacksonville." The writer then refers to correspondence with the regulatory agencies to prove the point. All of this is completely outside the Chapter 120 process statutorily mandated to determine whether the Siting Board should approve the application. By omitting any reference to the site certification administrative record, Seminole Kraft concedes that the Hearing Officer's recommendation and the Siting Board's Order were made in ignorance of Seminole's true intentions.

In the original application for site certification, Seminole planned to build a new kraft recovery boiler and continue making paper from pulped virgin products. The recovery boiler would provide Seminole with black liquor for the paper process, 42 MW of electricity, and high pressure steam. By late 1989 Seminole "knew that it might be possible to eliminate the recovery boilers entirely." On January 29, 1990 shortly before the site certification hearings began, Seminole issued a press release, enclosure (1), reporting that "Stone Container Corporation," Seminole's parent company, "announced today that its board of directors has approved a plan for major reconfiguration and paper machine rebuild at the Seminole Kraft Corporation mill in Jacksonville." As for the old power boilers, the press release continued that "The existing paper mill oil

fired boilers would continue to operate until the AES Cedar Bay Cogeneration plant startup after which the mill's boilers will be shut down."

When the decision was made to reconfigure the plant, the applicants knew that some other source of steam was necessary just to operate as originally proposed. At the February 5, 1990 site certification hearing, Mr. Stanley, Seminole's general manager, testified the conversion would reduce the amount of steam available to the company; enclosure (2). In his December 2, 1991 letter to Mayor Austin, enclosure (3), AES plant manager Kerry Varkonda candidly explained that AES could never meet Seminole's steam needs.

We have never intentionally misled anyone into thinking that we would supply all of the steam requirements of the mill. In fact the project's Site Certification Application (SCA) clearly shows that Seminole Kraft intended to produce a portion of its own steam.

The original agreements between Seminole and AES were reached and permits filed on the assumption that the mill would operate as a kraft pulp mill with an associated recovery boiler. Then when Seminole Kraft made the decision to convert to a recycled fiber mill, the steam production from the recovery boiler had to be replaced as it would no longer operate.

Yet on February 7, 1990 Mr. Daniel Nelson, an employee of Black & Veatch, co-applicant AES's consulting firm, was permitted to testify that AES would be able to meet all of Seminole Kraft's steam needs. Enclosure (4). On February 20, four days after Seminole asked DER for permission to amend its permit to construct the new recovery boiler, the applicants' attorney told Hearing Officer Benton that the bark and power boilers would be shut down, as originally proposed, and that Seminole would purchase its additional electricity requirements from the Jacksonville Electric Authority. Enclosure (5). If these representations were true, another boiler refurbished or new was unnecessary. That information was inaccurate and remained uncorrected through the January 1991 hearing before the Governor and Cabinet.

Moreover, the air modeling submitted with the application to demonstrate compliance with applicable pollution control regulations was never adjusted to reflect the emissions from the refurbished boilers. Thus, the crucial emissions data was misleading as to the effect of the project on Jacksonville's environment!

In July, 1990, Seminole Kraft, your Department and the City negotiated Condition II.D. Contemporaneous Emissions Reductions. As originally proposed, that condition obligated Seminole Kraft to dismantle its bark and power boilers. That requirement was eliminated at Seminole Kraft's request because Seminole said to do so would have been very costly. Repowering the

boiler after shutdown to meet known steam shortfalls was not Seminole Kraft's reason for eliminating the requirement to dismantle the boiler. Seminole Kraft affirmatively led the parties, the Hearing Officer and the Siting Board to believe that there was no need for those old boilers in the future and that they would be forever made incapable of operation.

Outside the administrative record on the site certification application, Seminole Kraft and the regulatory agencies exchanged correspondence on a number of issues. The critical letters, in Seminole's view, are attached to the January 7, 1992 letter. Seminole contends that the correspondence shows the regulatory agencies, if not the public and the intervenors, were aware of their plans to reuse the boilers. On January 7, 1992, Mr. Stanley, the plant general manager, held a press conference at the recycling facility to share this evidence with the media. As reported in the Florida Times-Union the next day, Mr. Stanley conceded the company could have done a better job:

However, in response to critics' allegations that Seminole Kraft didn't reveal its intent fully, Stanley agreed that the company had not been specific.

'To an extent, that's probably a fair analysis because we just completed the full engineering about 45 days ago,' he said.

While an amended application with less than full engineering would have been helpful, the correspondence is offered to prove that as early as February, 1990, the company clearly told the regulatory agencies of their intent to meet steam shortfalls by repowering the old boilers. Let's review the correspondence to see whether anybody would agree that Seminole told us of their plans. The following comments are keyed to the numbered paragraphs of the January 7, 1992 letter and the attachments thereto:

1. On February 16, 1990, Seminole Kraft did request amendment of its construction permit for the new recovery boiler. (See attachment 2.) In that request, Seminole Kraft explained that "Our number one paper machine (presently making bag paper) will be placed on cold standby for the time being. However, we hope to develop a project to use recycled fiber on the number one paper machine in the future, and if AES cannot supply the required steam, we would like to use the creditable emissions from the recovery boilers for a power boiler to supply steam to the number one paper machine." No one could glean from this that Seminole Kraft intended to repower the old boilers. By the February 16, 1990, letter, your Department and the City could not have known that AES couldn't supply the required steam or that "a power boiler to supply steam to the number one paper machine" meant a refurbished bark or power boiler, especially considering Mr. Nelson's testimony only a week before.

2. The City, in a letter dated March 22, 1990, from Mr. Manning, signed by Mr. Woosley, Air Engineer for the City, addressed creditable emissions from a shutdown of the recovery boilers. The City agreed that the decision to shut

down certain boilers was not "an impediment to the future construction of a steam-producing boiler at the Seminole Kraft facility should the need arise. A new boiler would be subject to new source performance standards . . ." The future construction of a new steam-producing boiler at the Seminole Kraft plant clearly does not mean refurbishing a 1950's vintage bark or power boiler.

3. On April 4, 1990, EPA did respond to the Seminole Kraft package forwarded by DER. (See Attachment 4.) While EPA recognized Seminole's ability to preserve the emission credits for five years from shutting down the recovery boilers, it did not even mention the possibility of reopening old bark boilers using those emission credits.

4. Your Department responded to Seminole Kraft regarding contemporaneous emission credit calculations on June 6, 1990. (See Attachment 5.) That letter attached the EPA letter and the February 16, 1990, letter from Seminole. As discussed in paragraph #1, above, one stated purpose of requesting the emission credits in the February 16, 1990, letter was for a power boiler. The power boiler was not specified and certainly there is no indication Seminole Kraft was referring to any of its existing power boilers that were to be shut down under Condition II.D.

5. On June 6, 1990, your Department also responded to Seminole Kraft's request to amend the construction permit for the new recovery boiler to allow an option of closing down three existing recovery boilers and converting to a 100% recycle fiber operation. (See Attachment 6.) Neither your Department's letter of June 6 nor Seminole's request for amendment of February 16, 1990, even mentions the possibility of reactivating the old bark and power boilers once they were permanently shut down.

6. On June 14, 1990, Seminole Kraft formally notified your Department of its election to pursue use of recycled fiber rather than construct a new recovery boiler. (See Attachment 9.) That notification adds nothing to Seminole's February 16, 1990, letter which does not even hint at the use of the old power and bark boilers after "permanent" shutdown.

7. On July 2, 1990, your Department acknowledged receipt of Seminole's June 14, 1990, letter. This hardly establishes your Department knew Seminole Kraft planned to use the boilers further.

8. Seminole Kraft and AES negotiated Condition of Certification II.D. in July, 1990. The City disagrees that it concurred in any interpretation allowing Seminole to rebuild the bark boilers. On the contrary, regulatory agencies originally proposed a condition requiring Seminole to dismantle the boilers. Seminole complained that the cost of dismantling would be prohibitive and asked permission to leave the boilers in place after they had been permanently shut down. Your Department concurred that letting the boilers rust in place after they had been permanently shut down and made incapable of operation was acceptable. It was the intent of the parties that those boilers never be used again. In contrast, the City later negotiated a Consent Agreement with Seminole to

settle certain odor violations. (See Attachment 14.) That agreement pertained to Seminole's old kraft recovery boilers -- the ones that were to be replaced by the new kraft recovery boiler in the original AES/Seminole Kraft site certification application. Under paragraph 9.A.1.b. of the Consent Agreement, Seminole Kraft was required to "cease emissions of TRS by September 12, 1992, and cease use as recovery boiler as provided in paragraphs 11 and 12. Surrender permits for use as recovery boiler. Any further use of the equipment shall require compliance with applicable rules, including obtaining new permits." Certainly, if the City and your Department envisioned that Seminole Kraft could continue to use the bark and power boilers, Condition II.D. would have contained language like that found in the Seminole Kraft/City of Jacksonville Odor Consent Agreement.

9. On October 26, 1990, Seminole Kraft sent a letter to Mr. Steve Smallwood of the Bureau of Air Quality Management proposing to confirm his discussions concerning refurbishment or replacement of the existing bark boilers, or the use of the boilers to burn recycled fiber rejects and well as bark. The letter closed with a request that your Department confirm Seminole Kraft's understandings. Instead of confirming Seminole Kraft's understandings, DER sent Seminole's correspondence to EPA Region IV in Atlanta for review. The Governor and Cabinet approved the site certification before Region IV (which did not participate in negotiating Condition II.D.) responded on February 25, 1991. EPA's response, therefore, not only analyzed Seminole Kraft's proposals in the abstract, they also responded too late to give Seminole any comfort. At the time the Governor and Cabinet acted, Seminole could not have known what EPA would say and did not have the Department's concurrence that the old boilers could be refurbished and repowered.

10. When your Department transmitted Seminole's October 26, 1990, letter to EPA on November 21, 1990, a copy was provided to the City of Jacksonville. (See Attachment 12.) Seminole asserts that the City neither responded nor objected to Seminole's interpretation of the condition. This is hardly surprising because the City was not a party to the conversation Seminole sought to confirm, nor was the City asked to comment.

11. On November 14, 1990, the City and Seminole Kraft signed a Stipulation for Entry of a Consent Judgment, reaching an agreement on a civil action brought by the City relating to odor. (See Attachment 14.) In that Stipulation, Seminole specifically reserved the right to repermit and use the recovery boiler equipment for future power or steam needs. The Stipulation demonstrates that Seminole Kraft knew how to negotiate a condition allowing it to repower a source that had been shut down. They did not reserve such an opportunity in negotiating Site Certification Condition II.D. Moreover, while the Consent Judgment Stipulation may have put the City on notice of Seminole's needs for additional power or steam, nothing in the Stipulation, which relates to the kraft recovery boiler system, alerts the City that Seminole Kraft wanted to repower the boilers to be shut down under the unrelated site certification conditions.

12. As discussed above, on February 25, 1991, two weeks after the Governor and Cabinet granted site certification, EPA responded to DER's request concerning Seminole's October 26, 1990, letter. EPA erroneously believed that bark boilers were to be dismantled. Moreover, their views address repowering shutdown sources in the abstract because they were not a party to the negotiation of Condition II.D. designed to achieve a certain end: the permanent shutdown of old boilers with a notorious history of non-compliance.

The remaining correspondence submitted by Seminole Kraft discusses whether the company may burn rejects from the recycling operation in the bark boilers after the recycling conversion until AES's boilers come on line. These issues are still under study and there is nothing in the correspondence that would apprise anyone of a plan to use the boilers after AES is operational.

The attachments to Seminole Kraft's January 7, 1992 letter wouldn't convince anybody that the company had telegraphed their plan to us, and Mr. Stanley agrees "that's probably a fair analysis." Moreover, the response concedes several points. First, by omitting any reference to the administrative record on the site certification application, Seminole concedes that it never formally apprised the parties, the Hearing Officer, or the Governor and Cabinet of its plan to repower the old boilers or its incredible interpretation of Condition II.D. In this regard, Seminole also concedes that the testimony of Mr. Nelson and the statement of counsel were not corrected to reflect the true circumstances.

Second, Seminole admits by its exchange of correspondence outside the administrative record that, when it decided to convert the plant to 100% recycling, Seminole planned to repower the boilers. Otherwise, why would Seminole now argue that it told the regulatory agencies it wanted to repower the old boilers in correspondence as early as February, 1990?

Third, the correspondence is not, by any stretch of the imagination, a clear and unequivocal statement of Seminole's plans to repower its boilers. Even by the most strained reading no reasonable person could conclude that Seminole notified either your Department or the City of Jacksonville of its plans.

Rather than refuting the City's position, Seminole has confirmed that it affirmatively misled your Department, the City, and the Governor and Cabinet into believing that AES could provide all Seminole's steam needs when it could not; that Seminole would not need a rebuilt boiler (to replace electric power lost by eliminating the new kraft recovery boiler because it would buy electricity from JEA); and, that "permanently shut down and made incapable of operation," the language of Condition II.D., had a unique meaning known only to Seminole Kraft.

Undoubtedly, Seminole Kraft knew how to raise the issue of repowering the boilers: amend the site certification application. An amendment would have explicitly detailed its real plans and provided the basis for a careful and well-reasoned analysis. Seminole had done this on several earlier occasions, including withdrawing the new kraft recovery boiler system when the decision was made to convert the plant to a 100% recycle operation. Seminole's failure to

Secretary Carol Browner
January 13, 1992
Page -7-

amend the application when it planned to reuse the old boilers, and its failure to correct its affirmative statements on the record, deprived the parties, your Department, the City, the Hearing Officer and, the Governor and Cabinet of the opportunity to evaluate the real impact of Seminole's decision.

Ultimately, the question is whether, upon the administrative record before them, the Governor and Cabinet would have granted certification if they knew the truth about Seminole's plans. We don't think they would. Seminole's abuse of the process should be fully investigated with a view to suspending site certification, stopping construction until the impact of the applicants' true plans are fully explored.

Sincerely,



Gregory K. Radlinski
Assistant General Counsel
Environmental Law Division

GKR/lou

cc: Richard Donelan (with enclosures)
Gary Smallridge (with enclosures)
Mayor Ed Austin (with enclosures)
✓ Steve Smallwood (with enclosures)
Clair Fancy (with enclosures)
T. R. Hainline (with enclosures)
J. L. Manning (with enclosures)
EPA (with enclosures)
John A. Delaney (with enclosures)

ENCLOSURE (1)

L.A. Stanley (904) 751-6400

**STONE CONTAINER BOARD APPROVES PLAN TO CONVERT
SEMINOLE KRAFT MILL TO 100% RECYCLED FIBER OPERATIONS**

TRS Emissions Will Be Eliminated And 1,200 Tons
Of Linerboard Per Day Will Be Produced

Jacksonville, FL January 29, 1990 --- Stone Container Corporation announced today that its board of directors has approved a plan for a major reconfiguration and paper machine rebuild at the Seminole Kraft Corporation mill in Jacksonville, Florida. Seminole Kraft Corporation is a 60% equity owned subsidiary of Stone Container Corporation.

In making the announcement, Roger W. Stone, Chief Executive Officer of both companies said, "The conversion of the Seminole Kraft mill to 100% recycled fiber helps us meet the changing needs of our customers - companies world-wide who package their goods in corrugated containers and who want to do their part to help minimize solid waste." The Seminole Kraft conversion would increase Stone's total recycling capacity from 1.3 million tons in 1990 to 1.8 million tons by 1992.

Page Two

This application of new technology would eliminate all regulated sources of TRS emissions - the familiar kraft mill odor - by closure of the kraft pulp mill and replacement with a 100% recycled fiber operation. This plan would also make a major contribution to the solution of solid waste disposal problems in the State of Florida and the nation by utilizing more than one-half million tons per year of waste paper.

The mill conversion is estimated to cost \$100 million and to take 30 months to complete. Engineering studies are currently underway to finalize these estimates. After conversion, the mill would be designed to produce 1,200 tons per day of 100% recycled linerboard.

The mill would continue operation during the conversion. The existing paper mill oil fired boilers would continue to operate until the AES Cedar Bay Cogeneration plant startup after which the mill's boilers will be shut down.

The plan is contingent upon approval by the Seminole Kraft Corporation board of directors and certain regulatory approvals, confirmation of the cost by a detailed engineering study, and completion of suitable financing.

- more -

Page Three

In describing the mill conversion, L.A. Stanley, General Manager, Seminole Kraft, said that, through innovative approaches utilizing the latest proven technology, the project would:

- . eliminate all regulated sources of TRS (i.e., pulp mill, recovery boilers and recausticizing operation will be shut down) which will result in elimination of the typical kraft pulp mill odor.
- . significantly reduce particulate emissions.
- . increase use of recycled waste paper by more than 1,300 tons/day from the current 100 tons/day.
- . reduce landfill needs by about 4,000 cubic yards per day (equivalent to the waste from a city of nearly 3/4 million people) by recycling this amount of paper.
- . reduce water usage and wastewater volume.
- . result in significant reduction of truck traffic.

Stanley stated that as a result of the shutdown of a portion of the mill, there will be a reduction in the mill's workforce. The exact number cannot be determined until engineering is complete.

more -

Page Four

The Seminole Kraft mill was constructed in the early 1950's by St. Regis Paper Company and expanded to its present configuration in the mid-1950's. The mill was sold in 1983 to Ben Westby, who formed Jacksonville Kraft Paper. Jacksonville Kraft was acquired by Abraham Zion in early 1985, but was shut down in October, 1985, for economic and environmental reasons. Seminole Kraft Corporation was formed and the mill purchased in October, 1986. Following recommissioning at a cost of \$25 million, the mill was restarted in early 1987.

Stone Container Corporation is a major multi-national paper company, operating principally in one business segment - the production and sale of commodity pulp, paper and packaging products.

The company, which has grown steadily since its founding in 1926, has increased dramatically in size over the past six-plus years through a series of four major acquisitions and several smaller ones. Since 1982, sales have increased nearly 1200 percent to the currently indicated annualized rate of approximately \$5.5 billion. Stone Container Corporation, including its subsidiaries and affiliates, maintains manufacturing facilities and sales offices throughout North America and in Western Europe, as well as sales offices in Japan and China.

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ENCLOSURE (2)

Mr. Stanley

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

AES CEDAR BAY, INC., and
SEMINOLE KRAFT CORPORATION,
Petitioner,

CASE NO. 88-5740

vs.

DEPARTMENT OF ENVIRONMENTAL
REGULATION,
Respondent.

CITY OF JACKSONVILLE, DEPARTMENT
OF COMMUNITY AFFAIRS, PUBLIC SERVICE
COMMISSION, and ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT, JACKSONVILLE
ELECTRIC AUTHORITY, CHARLES L. BOSTWICK,
BARNETT BANK TRUST COMPANY, IMESON
INTERNATIONAL PARK, INC., and INDUSTRIAL
PARK DEVELOPMENT CORPORATION,

STATE OF FLORIDA)

COUNTY OF DUVAL)

TESTIMONY and PROCEEDINGS before the Honorable
ROBERT T. BENTON, Hearing Officer, at 8050 Baymeadows
Road, Jacksonville, Duval County, Florida, on Monday,
Tuesday, and Wednesday, the 5th, 6th, and 7th days of
February, 1990, before Terry T. Hurley, a Notary Public
in and for the State of Florida at Large.

VOLUME I

(Pages 1 - 274)

DAWOOD & HOGAN
828 Blackstone Building
Jacksonville, Florida 32202
(904)353-5300

RED STAMP INDICATES
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the new recycling facility would you be replacing any permitted air sources that you're aware of now?

A No.

Q Would there still be a requirement for power and for steam for the mill?

A Absolutely. The steam requirements would exist for the manufacture of paper in the future as they do currently.

Q How would the proposed project effect the AES project?

A There would -- there would be a reduction in the amount of steam-- I don't -- I don't have the exact numbers at this time, and won't have them until engineering is complete, based upon a one machine operation.

Q Would you still need steam from some source?

A Oh, yes.

Q In terms of the election of construction of a power boiler, or of shutting it down and going to the recycled operation, is there a change in whether this project is required?

A We still require the source of steam in order to operate the mill and manufacture paper. Steam is a basic requirement of paper manufacturing.

Q Do you currently generate steam in-house?

ENCLOSURE (3)

you Manny Hester DeLong

*SREG
ADDL 4/41
3/41
Dennis*
December 2, 1991

Honorable Ed Austin
Mayor
City of Jacksonville
14th Floor, City Hall
220 East Bay Street
Jacksonville, Florida 32202

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DEC 06 1991

DEC 11 1991

OFFICE OF GENERAL COUNSEL
ENVIRONMENTAL DIVISION
JACKSONVILLE, FLORIDA

Dear Mayor Austin:

We appreciate your consistent willingness to keep an open mind about AES/Cedar Bay, to thoroughly examine the issues and base your decisions on the facts. Several recent issues have been miscast by the media concerning AES/Cedar Bay's unchanged commitments to provide steam to Seminole Kraft and to cause the surrender of operating permits for 5 of Seminole Kraft's boilers. I am concerned that inaccurate information in the media has unfairly cast a shadow over the AES Cedar Bay project and am writing to provide you a complete picture of this issue.

ISSUE: AES/Cedar Bay cannot provide the amount of steam originally promised to Seminole Kraft ?

AES Cedar Bay has long maintained that it would provide approximately one-half of Seminole Kraft's steam needs. We have never intentionally misled anyone into thinking that we would supply all of the steam requirements of the mill. In fact the projects' Site Certification Application (SCA) clearly shows that Seminole Kraft intended to produce a portion of its own steam.

What is the issue?

The original agreements between Seminole and AES were reached, and the SCA filed, during a time when the mill was, and planned to be, a kraft process pulp mill. As you are aware a kraft process pulp mill requires the operation of recovery boilers to process byproducts while producing steam. By necessity, these operating plans changed as a result of their recycle conversion.

*But the application
was never completed
before conversion.*

ISSUE: AES/Cedar Bay is renegeing on promises to cause surrender of operating permits for 5 of Seminole Kraft's boilers?

AES Cedar Bay received its Site Certification based on the requirement that operating permits currently held by Seminole Kraft for two (2) bark boilers and three (3) power boilers would be surrendered to the State of Florida. As outlined above, the original agreements between Seminole and AES were reached and permits filed on the assumption that the mill would operate as a kraft pulp mill with an associated recovery boiler. Thus when Seminole Kraft made the decision to convert to a recycled fiber mill, the steam production from the recovery boiler had to be replaced as it would no longer operate.



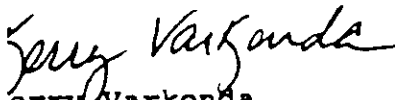
Page 2 of 2

In order to determine how best to supply their share of steam, Seminole Kraft commissioned a study by Sandwell Engineering to evaluate many options for replacing the steam production from the recovery boiler and to burn waste fiber from the recycle process. That study was completed in September of 1991. Sandwell's recommendation was to upgrade and refurbish three of the boilers which will relinquish their permits when AES/Cedar Bay begins commercial operation.

In order for this to happen, Seminole Kraft must file applications, and undergo scrutiny from the regulatory agencies in the same fashion as any brand new source of air emissions. This process, the same as for any new source anywhere, must be followed in order to obtain new operating permits.

I hope that this letter more clearly explains what is happening with regards to the AES/Cedar Bay facility and its commitments to Seminole Kraft. AES/Cedar Bay is well aware of its obligation to supply 250,000 pounds per hour of steam to the mill and to cause the surrender of 5 operating permits for 1950's vintage boilers. And, AES/Cedar Bay intends to fully meet those commitments. We stand ready to meet with you and to answer any questions that you might have regarding the AES/Cedar Bay project.

Sincerely,



Terry Varkonda
Plant Manager

ENCLOSURE (4)

1 eat early and be back at 1:20.

2 (At, thereupon, the hearing was recessed at
3 12:40 p.m. to be reconvened at 1:40 p.m. of the
4 same day.)

5
6
7 A F T E R N O O N S E S S I O N

8 February 7, 1990

1:45 p.m.

9 THE HEARING OFFICER: Call your next witness.

10 MR. COLE: Mr. Nelson.

11
12 DANIEL WILLIAM NELSON,
13 having been produced and first duly sworn as a witness,
14 testified as follows:

15
16 DIRECT EXAMINATION

17 BY MR. COLE:

18 Q Would you state your full name and business
19 address, please.

20 A My name is Daniel William Nelson, and my
21 business address is 11401 Lamar, Overland Park, Kansas.

22 Q Okay. Could you briefly summarize your
23 education and experience.

24 A Okay. I have a Bachelor of Science degree in
25 meteorology. That was in 1975. Since then I've worked

1 briefly for the State of Iowa, and then at a research
2 institute for three years. And for the last twelve years
3 I've been employed at Black and Veatch,
4 Engineers-Architects.

5 Q At Black and Veatch what? Say it again,
6 Black & Veatch --

7 A Engineer-Architects.

8 Q Okay. Not as a architect, but that's part of
9 the name?

10 A No, right.

11 Q What is your position and responsibilities
12 there at Black & Veatch?

13 A I'm the unit supervisor for air quality and
14 noise units within Black & Veatch.

15 Q Okay. I'd like to show you a document we've
16 marked as Exhibit 1. Is that an accurate summary of your
17 education and experience?

18 A Yes, it is.

19 Q Does that detail some of the computer modeling
20 or air quality dispersion analysis, or air analysis that
21 you've done on some of the subsequent pages, and on
22 various projects around the country?

23 A Yes, it is.

24 Q Okay. Have you done any work in Florida in
25 terms -- besides this project in terms of ambient

1 analysis?

2 A I was involved in the Stanton Energy Center
3 air quality analysis, and we've done some other projects
4 that have been combustion turbines here in the last year
5 or so.

6 Q Okay. And the Stanton Energy Center, was that
7 a power plant siting application?

8 A Yes, it was.

9 Q Through the Department of Environmental
10 Regulation?

11 A Yes, it was.

12 MR. COLE: Okay. I would like to have -- I
13 would like to move this into evidence as
14 Petitioner's Exhibit 1, and I would like -- 21, I'm
15 sorry, and have him recognized as an expert in
16 meteorology and air quality analysis.

17 MR. MAGUIRE: No objection.

18 THE HEARING OFFICER: All right. Without
19 objection this is in evidence as DER's 21 -- I'm
20 sorry, as AES's 21.

21 (Petitioner's Exhibit Number 21 was received
22 and filed in Evidence.)

23 BY MR. COLE:

24 Q In the course of your duties at Black & Veatch
25 have you been asked to review air data and provide an

1 analysis of ambient air impacts of the proposed AES Cedar
2 Bay facility?

3 A Yes, I have.

4 Q Okay. What did you have to do in order to
5 prepare or assist in the preparation of the application;
6 what type of ground work do you lay in order to do that?

7 A Okay. Several things that we have to do. We
8 obtained background air quality or ambient data, and
9 that's what the monitors are out there for the State has,
10 measuring what people are breathing currently.

11 We get this information. We contacted the DER
12 and established what would be representative background
13 data that we could use for our analysis.

14 We also contacted the DER to establish what
15 set of meteorological data that we could use in our
16 computer programs to simulate the emissions coming from
17 the power plant. And they provided that to us.

18 We also have to establish what the proposed
19 emissions and source parameters would be for the AES
20 facility in this case, and that's -- I got that
21 information from Mr. Cochran.

22 We also have to establish if there's any
23 sources that will be replaced as a result of our
24 facility, and look at those actual emissions to see what
25 kind of credit we can get for replacing them.

1 Q Okay. Did you assist in the preparation of
2 the site certification application for this facility?

3 A Yes, I did.

4 Q Overall what sections or what parts of the
5 application did you help to prepare, or prepare?

6 A There's a general site climatology type
7 section, just a background of the existing climate of the
8 area, that I helped prepare. And the major one would be
9 5.6, which is the air impacts associated with the
10 operation and the construction of the proposed facility.

11 Q Okay. As far as you know, with the
12 application and the subsequent amendments -- and in terms
13 of the amendments did you provide input in your field of
14 expertise on some of the amendments as it effected air?

15 A Yes.

16 Q Okay. And taking both the application and the
17 amendments to the application, overall are the air data
18 relating to background, existing emissions, projected
19 emissions, are those true and accurate to the best of
20 your knowledge?

21 A We have here recently excluded a bunch of the
22 Seminole Kraft other sources, and we're only limiting --
23 or looking at the actual emissions to the power boilers
24 that we're replacing.

25 We provided a summary of that to BSD here

1 within the month.

2 Q Okay. And that was of the pieces of
3 information that you helped to prepare up there?

4 A Yes.

5 Q Okay. Overall, with taking that into account
6 then, do you consider that to be true in terms of any
7 facts that were in there?

8 A Yes.

9 Q To the best of your knowledge.

10 A Yes.

11 Q In terms of any opinions that may be found in
12 there, overall do you feel that the sections you prepared
13 are accurate and would be representative of either actual
14 conditions or proposed conditions?

15 A Yes.

16 Q Once you were able to collect the data that
17 you mentioned from the Department of Environmental
18 Regulation Bioservices Division, what did you do in
19 gathering the necessary information to make your
20 analysis?

21 A I guess we got the information from the DER,
22 not the BSD.

23 What we want to do is sit and identify what a
24 representative two-year period is for those existing
25 sources. This period was 1983-'84 for the paper mill

1 operation of those power boilers.

2 We calculated the emissions associated with
3 that operation during that period, and I -- that's like
4 our before case, or our base case.

5 Then we take our proposed emissions at the
6 worst case operating scenario to be conservative, and
7 generate what the emissions -- and that's what Mr.
8 Cochran was talking about here earlier -- and do a
9 comparison between the two to show if we're increasing
10 pollutants, if we've got a decrease associated with that,
11 to determine which pollutants would be applicable for
12 doing further analysis.

13 Q Okay. I would like to show you a document
14 which we'll mark for identification as Petitioner's
15 Exhibit 22. In fact, do you have a copy of the document
16 entitled Significant and Net Emission Rate Returns Per
17 Year that you can refer to?

18 A Right, I can look at mine right here.

19 Q Okay. Using this exhibit for identification,
20 could you summarize what you found, and without reading
21 the document, but in terms of overall increases of the
22 applicable validity.

23 A Okay. We -- this here is the current, just
24 showing the power boilers, the bark and the power -- the
25 three power boilers and the two bark boilers for the

1 existing '83-'84 data, along with our proposed emissions.
2 And we come up with a net increase in carbon monoxide,
3 nitrogen oxide. We have a significant decrease in sulfur
4 dioxide emissions.

5 Particulate matter also decreases. We've got
6 another subcategory of particulate matter, what they call
7 PM-1. And this is like particles that are less than ten
8 microns in diameter.

9 And EPA and DER, and various State agencies
10 are more -- making this more -- what do I want to say --
11 respirable. This size is more likely to get down into
12 your lungs. So they're really seeing that to be the
13 problem.

14 So we're kind of moving toward a PM-10
15 pollutant.

16 Q Fine particulate?

17 A Fine particulate, yes, also known as that.

18 I guess I would like to clarify one thing from
19 when Mr. Cochran was talking about from a VOC or volatile
20 organic compounds.

21 When we were looking at the entire facility
22 before with some of the other sources we show a decrease
23 in the volatile organic compounds. Now, if we just
24 consider the power boiler and the bark boiler emitting
25 those out, we've not increased ours, but the net is a

1 slight increase. We had a slight positive, but it's well
2 below EPA's significant criteria.

3 So that's a little bit of a clarification from
4 what Mr. Cochran said.

5 Q When you're totaling the net and significant
6 net emission rates, does that mean you're totaling what's
7 coming out of the stack, or actually what would be in the
8 area community that people would breathe?

9 A Okay. When we're talking about this table in
10 exhibit is what's coming out of the stacks.

11 THE HEARING OFFICER: Of course I don't have
12 that before me, so I'm having a little difficulty
13 following, but I would like to be sure I understand
14 the comparison that you made.

15 You say you looked at emissions from the paper
16 mill in the years 1983 and 1984?

17 THE WITNESS: Right.

18 THE HEARING OFFICER: And you had a record
19 that they kept at the time?

20 THE WITNESS: We had gone and looked at their
21 logs, I guess plant logs, to determine the amount
22 of air-dried pulp generated, and we also have
23 fuel -- fuel oil burn records. So we can see if
24 it's a representative year of operation.

25 Now, EPA and the DER will allow you, when

1 you're looking at -- getting a net benefit from
2 shutting down, you can go back and look at the two
3 representative years worth of data.

4 So we researched back into the files and
5 identified that '83-'84 is representative of the
6 current operation.

7 THE HEARING OFFICER: On the basis of fuel
8 usage and pulp dried.

9 THE WITNESS: In the amount of -- yes.

10 THE HEARING OFFICER: And then there were also
11 records of emissions?

12 THE WITNESS: What we have, is if you have the
13 amount of fuel oil burned you can calculate -- and
14 you know what the sulfur content of the fuel oil
15 is, you can mathematically calculate what, say, the
16 So₂ emissions would be.

17 THE HEARING OFFICER: All right. So all the
18 emissions were extrapolated from the fuel records,
19 fuel consumption records?

20 THE WITNESS: Those are used. There is -- EPA
21 also has some guidelines, what they call emission
22 factors. It's like, if this many tons or gallons
23 of fuel are burned for this type of source, you can
24 calculate.

25 The engineering or professional estimate would

1 be take this times the number of gallons and come
2 up with the emissions estimates for various
3 pollutants.

4 THE HEARING OFFICER: All right. Now, during
5 those years what was the paper mill firing?

6 THE WITNESS: We were only concerned here now
7 with the bark boilers and the power boiler. They
8 were firing oil. The bark boilers had a
9 combination of some oil, some bark.

10 THE HEARING OFFICER: Are you only concerned
11 with the bark boilers? These are the recovery
12 boilers we've heard about?

13 THE WITNESS: These are different recovery
14 boilers. It was a totally separate process. This
15 would be to provide steam to the plant.

16 THE HEARING OFFICER: All right. And I think
17 it's in the record, but just to help me now, how
18 many bark boilers are there?

19 THE WITNESS: There are two bark boilers and
20 three power boilers existing now at the Seminole
21 Kraft, and these will be replaced.

22 And right now these -- Mr. Cochran was saying
23 that there's really no controls associated with
24 these facilities, and they have very short stacks,
25 that they're allowing the pollution to be disbursed

1 into the air.

2 So with -- we'll get into it a little bit
3 further, but by putting our facility in there we
4 have improved the dispersion capability of the
5 facility by replacing these older outdated power
6 boilers.

7 THE HEARING OFFICER: All right. The recovery
8 boilers are to be shut down in any case.

9 THE WITNESS: The recovery boiler, as I
10 understand, with Seminole Kraft changing their
11 operation to a recycling mode, they will no longer
12 be required. And that's a separate issue from what
13 we're doing here.

14 THE HEARING OFFICER: All right. And how
15 about the bark boilers, are they going to be used
16 to recycle paper into liner board?

17 THE WITNESS: The bark boilers will be
18 replaced with the Seminole Kraft facility, so they
19 won't need any of those boilers anymore, the power
20 boiler and the bark boiler.

21 Any steam requirements that they need will
22 come from the AES project.

23 THE HEARING OFFICER: I guess my question is
24 whether when they go to their new process they're
25 going to have any bark that they could have used in

1 a boiler?

2 THE WITNESS: I'm not sure, but I think
3 they're only going to recycle cardboard at this
4 point, and there won't be any wood waste
5 associated.

6 THE HEARING OFFICER: Okay. There's not an
7 extra copy of that exhibit?

8 MR. COLE: I was fixing to move it into
9 evidence for you. I had wanted to lay a little bit
10 of ground work and then give it to you. And I'll
11 run through it in more detail.

12 Let me ask him one more question to lay a
13 predicate, and then I'm going to move it into
14 evidence and then you'll have it.

15 BY MR. COLE:

16 Q Mr. Nelson, in terms of the existing emissions
17 that are detailed in Exhibit 22 for identification, the
18 proposed emissions and the calculations that were done in
19 terms of increases or decrease, are these true and
20 accurate to the best of your knowledge?

21 A Yes, they are.

22 Q Okay.

23 MR. COLE: I would like to move that into
24 evidence as AES's Exhibit 22.

25 THE HEARING OFFICER: Any problem with this?

1 MR. MAGUIRE: No, sir.

2 THE HEARING OFFICER: All right. Without
3 objection.

4 (Petitioner's Exhibit Number 22 was received
5 and filed in Evidence.)

6 BY MR. COLE:

7 Q Okay. Would you finish your summary of the
8 overall emissions increases or decreases for the
9 applicable pollutants.

10 A Okay. I believe I left off with lead. We'll
11 have a net increase in lead. Asbestos, it's equal to or
12 less. Beryllium, a slight increase; mercury, a slight
13 increase; vinyl chlorides, possibly. It would not be
14 significant, however. Sulfuric acid mist, we will have a
15 net increase. I believe I skipped one. Chlorides, we'll
16 have a net increase. And total reduce sulfur will not be
17 a significant increase.

18 Q There is a term to the right, applicable
19 pollutant. What was the purpose of that, or what does
20 that mean?

21 A Okay. From an air quality standpoint EPA has
22 established a permitting process which the DER has
23 adopted also. And what you have to do is look at --
24 actually look at the second -- the last three columns
25 there are the most important.

ENCLOSURE (5)

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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

AES CEDAR BAY, INC., and
SEMINOLE KRAFT CORPORATION,
Petitioner,

vs.

Case No. 88-5740

DEPARTMENT OF ENVIRONEMNTAL
REGULATION,
Respondent.

CITY OF JACKSONVILLE, DEPARTMENT
OF COMMUNITY AFFAIRS, PUBLIC SERVICE
COMMISSION, and ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT, JACKSONVILLE
ELECTRIC AUTHORITY, CHARLES L. BOSTWICK,
BARNETT BANK TRUST COMPANY, IMESON
INTERNATIONAL PARK, INC., and INDUSTRIAL
PARK DEVELOPMENT CORPORATION.

STATE OF FLORIDA)
COUNTY OF DUVAL)

TESTIMONY and PROCEEDINGS before the Honorable
ROBERT T. BENTON, Hearing Officer, at 7071 103rd Street,
Jacksonville, Duval County, Florida on Tuesday,
the 20th day of February, 1990, 9:00 a.m., before
LeeAnne T. Roberto, a Notary Public in and for the State
of Florida at Large.

VOLUME IV
(Pages 803-1055)

DAWOOD & HOGAN
828 BLACKSTONE BUILDING
JACKSONVILLE, FLORIDA 32202
(904) 353-5300

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1 But the work has been done as if it was
2 burning bark.

3 THE HEARING OFFICER: Of course, if you
4 switched to this other process, the recycling, then
5 you wouldn't have bark to fuel the -- two of the
6 five existing boilers?

7 MR. COLE: That's correct, but they would
8 not -- they probably would operate -- they are
9 capable of burning oil, also. So they can burn oil
10 in those instead of bark and are permitted to do
11 so. So that would be, if the -- depending on the
12 steam requirements, that's something that they
13 might have to do. But they are permitted either
14 way, I believe.

15 THE HEARING OFFICER: All right. Now,
16 when built, there would be -- is it correct that
17 there will be two separate operations; that there
18 will be one operation to generate electricity for
19 Seminole Kraft and another operation to generate
20 electricity for resale?

21 MR. COLE: That is correct, the way it
22 was proposed prior to the amendment, your Honor.
23 The -- Seminole Kraft, if it built the new recovery
24 boiler, would also generate about forty-five
25 megawatts -- is that -- forty-two megawatts of

1 electricity for use in the mill.

2 If the recycle -- if the recovery boiler
3 was not built, then Seminole Kraft would buy
4 electricity from J.E.A. They would not buy
5 electricity from A.E.S. Cedar Bay. They would
6 still get steam --

7 THE HEARING OFFICER: So the forty-two
8 megawatts were anticipated from the replacement
9 recovery boiler?

10 MR. COLE: That's correct.

11 THE HEARING OFFICER: Which will only be
12 built if you do not switch to the recycling?

13 MR. COLE: That's correct.

14 I have an answer to your question more
15 precisely on stack heights, your Honor.

16 The oil fired units have a stack height
17 of one hundred and six feet. The bark boilers have
18 a stack height of one hundred and thirty-six feet.
19 And that's found in Table 5.6-4. And it's also --
20 the page number would be page 5-42 of Volume II of
21 the application.

22 THE HEARING OFFICER: Thank you.

23 All right. Now, so again, these -- the
24 analysis, where some parameter is netted out, all
25 right, so that before was the five non-recovery