STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

SIERRA CLUB, INC.,	)	
	)	
Petitioner,	)	
	)	
vs.	)	CASE NO. 96-3039
	)	
JACKSONVILLE ELECTRIC AUTHORITY and DEPARTMENT OF ENVIRONMENTAL PROTECTION,	)	
	)	
Respondents.	)	
	)	

ORDER RELINQUISHING JURISDICTION

THIS CAUSE came on for consideration upon a Joint Stipulation and Motion for Dismissal. The undersigned being fully advised in the premises, it is, therefore

ORDERED that:

1. The hearing presently scheduled for October 21-25, 1996 is hereby CANCELLED.

2. Case No. 96-3039 is hereby CLOSED.

3. Jurisdiction in this cause is hereby relinquished to the Department of Environmental Protection.

DONE AND ORDERED this 4th day of October, 1996, in Tallahassee, Leon County, Florida.

P. MICHAEL RUFF
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(904) 488-9675 SUNCOM 278-9675
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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

SIERRA CLUB, INC., NORTHEAST FLORIDA GROUP,

Petitioner,

v.

JACKSONVILLE ELECTRIC AUTHORITY, and STATE OF FLORIDA, DEPARTMENT OF ENVIRONMENTAL PROTECTION,

Respondents.

DOAH Case No. 96-3039
OGC Case No. 96-1588

JOINT STIPULATION AND MOTION FOR DISMISSAL

PETITIONER SIERRA CLUB, INC., NORTHEAST FLORIDA GROUP ("Petitioner"), and JACKSONVILLE ELECTRIC AUTHORITY ("JEA"), through their respective, undersigned attorneys, do hereby stipulate as follows:

1. On June 21, 1996, Petitioner filed an Amended Petition for Administrative Hearing challenging JEA's proposed permit amendment PSD-FL-010(B).

2. A hearing is scheduled for October 21-25, 1996.

3. Petitioner and JEA have entered into a Settlement Agreement, which is hereby incorporated into this Joint Stipulation and Motion for Dismissal. A copy of the fully executed Settlement Agreement is attached hereto as Attachment A.

4. Pursuant to the terms and conditions of the Settlement Agreement, Petitioner and JEA jointly move for dismissal of

Petitioner's Amended Petition with prejudice.

5. Respondent Florida Department of Environmental Protection has no objection to this Joint Stipulation and Motion for Dismissal.

Dated: September 25, 1996

Priscilla N. Harris
Attorney for Petitioner
Florida Bar No. 0851574

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1680 Smith St., Suite 5
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Phone: (904) 269-7727; 284-3367
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Dated: September 26, 1996

HOPPING GREEN SAMS & SMITH, P.A.

By: _____

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Attorneys for
JACKSONVILLE ELECTRIC AUTHORITY

Dated: September 26, 1996

_____

Douglas Beason, Esq.
Attorney for Florida Department
of Environmental Protection
Office of the General Counsel
Florida Department of Environmental
Protection
The Douglas Building
3900 Commonwealth Blvd.
Tallahassee, FL 32399

SETTLEMENT AGREEMENT
BETWEEN
SIERRA CLUB INC., NORTHEAST FLORIDA GROUP
AND
JACKSONVILLE ELECTRIC AUTHORITY

1. This Settlement Agreement ("Agreement") between Sierra Club, Inc., Northeast Florida Group ("Petitioner") and Jacksonville Electric Authority ("Respondent") resolves all issues associated with Respondent's proposed modification of Air Permit PSD-FL-010, which modification would allow the co-firing of petroleum coke ("petcoke"), up to 20% by weight input, with coal at the St. Johns River Power Park ("SJRPP") in Jacksonville, Florida (OGC Case No. 96-1588) (DOAH Case No. 96-3039).

2. In consideration of Respondent's performance of the remaining provisions of this Agreement, Petitioner agrees to voluntarily dismiss with prejudice its Amended Petition for Administrative Hearing in the above-cited case ("Petition") immediately upon execution of this Settlement Agreement. Each party will bear its own costs and attorneys' fees.

3. Respondent shall initiate air emissions tests on one of the SJRPP units no later than 90 days after petcoke is first co-fired. The air emissions tests shall be conducted over a period not to exceed 30 days and shall result in the collection of emissions data. Emissions data for sulfur dioxide ("SO2"), nitrogen oxides ("NOx"), and carbon monoxide ("CO") will be gathered simultaneously. Emissions data for particulate matter ("PM"), Particulate Matter less than 10 microns in diameter ("PM10"), and sulfuric acid mist will be gathered pursuant to EPA reference methodology at representative intervals during the same period when SO2, NOx, and CO data are being simultaneously collected. Petitioner and/or its representatives may be present during testing. Respondent shall also project air emissions of lead, mercury, beryllium, vanadium and nickel, based on separate analyses of: (1) the blended fuel; (2) the coal being fired; and (3) the petcoke being fired. Respondent shall also model the projected concentrations of lead, mercury, beryllium, vanadium and nickel in the ambient air. Within 30 days after the air emissions data collection is completed, Respondent shall submit all emissions data from the test and modelling results to Petitioner and the professional engineer to be designated as set forth below. Petitioner and Respondent may provide the professional engineer written comments on the results.

4. An impartial Professional Engineer ("PE") registered in the State of Florida shall be mutually selected, which selection shall not be unreasonably withheld, by Petitioner and Respondent within 30 days of the date of this Agreement, to perform the duties discussed below. In the event that

Petitioner and Respondent cannot agree upon selection of an impartial PE within 30 days, Respondent shall immediately cease co-firing petcoke until such time as an impartial PE is selected. The PE shall be retained by both parties and paid by Respondent. The PE shall analyze the test data, fuel analysis, and modelling results and, based on sound engineering judgment, state whether co-firing of petcoke at the SJRPP will result in: (1) increases in emissions of SO2, NOx, PM, PM10, CO, and sulfuric acid mist; or (2) emissions of lead, mercury, beryllium, vanadium or nickel in the ambient air in excess of the draft Florida Air Reference Concentrations ("ARC's") in version 4.0 of DEP's draft air toxics working list (June 1995) or of any federal or Florida ambient air standard, whichever is the most stringent.

5. For the sole purpose of evaluating the test data collected pursuant to this Agreement, the PE shall assume that the following emissions levels represent baseline emissions at the SJRPP when only coal is being fired (however, recitation of these levels in this Agreement does not constitute agreement or admission by the Petitioner that these levels represent actual, historic emissions levels at SJRPP):

POLLUTANT	BASELINE EMISSIONS	METHOD
SO2*	0.67 lbs/MMBTU	CEMS
NOx	0.527 lbs/MMBTU	CEMS
PM	0.0154 lbs/MMBTU	EPA Stack Test Methodology
CO	0.132 lbs/MMBTU	CEMS

* The SO2 baseline will be adjusted in accordance with permit condition 2.A. depending on the sulfur content of the blended fuel.

Baseline emissions levels of PM 10 and sulfuric acid mist shall be established through separate, prior tests conducted while SJRPP is firing only coal, using EPA Stack Test Methodology. Petitioner and/or its representatives may be present at these prior tests.

6. In the event that the test burn data and engineer's report demonstrate that co-firing petcoke increases emissions of SO2, NOx, PM, PM10, CO, sulfuric acid mist above the baseline levels established above, or causes exceedance of a draft ARC or an ambient air standard, Respondent shall immediately cease co-firing petcoke and notify DEP in writing that Respondent surrenders its permit amendment to burn petcoke. Respondent may thereafter file a new application for a permit or permit modification to co-fire petcoke, but shall not co-fire petcoke at SJRPP until after such permit or modification is granted. Petitioner may contest such permit or modification, and Respondent hereby stipulates to Petitioner's standing in any proceeding in which Petitioner contests the permit or

modification.

7. Respondent shall submit a written protocol for air emissions testing, fuel analysis, and modelling to the Petitioner and the PE at least 60 days prior to commencement of testing. This protocol shall identify the entity performing the tests, the specific conditions under which testing will be performed, and the period and duration of the tests. If the Petitioner or PE comments on the testing protocol in writing within 15 days, Respondent shall respond to the comments in writing within an additional 15 days and the PE shall resolve outstanding testing protocol issues in writing within 15 days after the receipt of Respondent's response. Respondent shall modify its protocol to conform to the PE's written resolution of any protocol issues.

8. The air emissions tests shall be conducted during periods in which the petcoke constitutes 18% to 20% of the total co-fired fuel blend (by weight) and the blended fuel sulfur content of petcoke and coal is 3.6% to 4.0%. These ranges sufficiently represent an 80% coal / 20% petcoke blend with a 4% fuel sulfur content. If the test is undertaken during a period when the blended fuel sulfur content is less than 4% as described above, Respondent, while co-firing petcoke, shall thereafter limit the maximum blended fuel sulfur content to the average level tested unless and until it demonstrates to the PE the ability to meet the requirements of this agreement, at a higher blended fuel sulfur content, in further air emissions testing and evaluation.

9. The persons executing this Agreement, two copies of which will be executed, represent that they have full and complete authority to act on behalf of the parties to the case settled by this Agreement.

Walter P. Bussells
Managing Director and
Chief Executive Officer
Jacksonville Electric Authority

Dan Donaldson
Official Representative
Sierra Club, Inc.
Northeast Florida Group

Gary Sams, Esq.
Hopping Green Sams
& Smith, P.A.
Attorney for Respondent

Priscilla N. Harris, Esq.
Harris Law Offices
Attorney for Petitioner

Date: 9/27/96

Memorandum

Florida Department of
Environmental Protection

TO: Howard L. Rhodes

FROM: Clair Fancy 10/10

DATE: October 10, 1996

SUBJECT: Approval of a PSD Permit Amendment (PSD-FL-010B)
St. Johns River Power Park, Duval County

Attached for your approval and signature is a PSD permit amendment authorizing St. Johns River Power Park to fire a blend of upto 20% petroleum coke and coal in Units 1 & 2 in Jacksonville, Florida.

The petition filed by the Sierra Club was dismissed following successful negotiations with JEA. They signed a separate agreement, a copy of which is also attached (and to which we are not a party).

According to the agreement, JEA will cease burning petroleum coke if there are any emission increases. We had covered this already through permit conditions which would have tripped PSD in such an event.

The Certification modification Final Order was issued on October 4, 1996, therefore, we can proceed with the issuance of this PSD permit amendment.

The key is that JEA has scrubbers and they will be permitted to emit a maximum of 0.68 lb SO_2/MMBtu compared with their present limit of 0.76 lb/MMBtu. NOx and PM emissions are not affected by coke use. They will need to be vigilant to maintain CO at historical levels.

CHF/sa/t

FOR YOUR INFORMATION
JIM ALVES

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

SIERRA CLUB, INC.,
NORTHEAST FLORIDA GROUP,

Petitioner,

v.

JACKSONVILLE ELECTRIC AUTHORITY, and STATE OF FLORIDA, DEPARTMENT OF ENVIRONMENTAL PROTECTION,

Respondents.

DOAH Case No. 96-
OGC Case No. 96-1588

AMENDED PETITION FOR ADMINISTRATIVE HEARING

Pursuant to section 120.57(1), Florida Statutes, Sierra Club, Inc., Northeast Florida Group, requests a formal administrative hearing and in support provides the following:

(a) Names and Addresses.

1. Petitioner's name and address are Sierra Club, Inc., Northeast Florida ("Petitioner"), 1468 Seminole Road, Jacksonville, Florida. Petitioner's telephone number is (904) 743-0565.

2. The applicant's name and address are Jacksonville Electric Authority ("JEA"), 21 West Church Street, Jacksonville, Florida 32202-3139.

3. The Department of Environmental Protection ("DEP" or "Department") Permit File Number for the proposed permit amendment ("Proposed Amendment") to allow the burning of petroleum coke ("petcoke") at the JEA St. Johns River Power Park ("Facility" or "SJRPP"), is PSD-FL-010(B). The Facility is located in Duval County, Florida.

(b) Notice

4. Petitioner received notice of DEP's proposed action on May 6, 1996, by means of a legal notice published in the *Florida Times-Union* newspaper on May 6, 1996 ("Legal Notice").

(c) Standing

5. Petitioner promotes conservation of the natural environment. Its mission is to: (1) explore, enjoy, and protect the natural and wild places of the Earth; (2) practice and promote responsible use of the Earth's ecosystems and resources; (3) educate and enlist humanity to protect the quality of the natural and human environment; and (4) use all lawful means to carry out these objectives.

6. The failure of JEA to provide the necessary reasonable assurances concerning the burning of petcoke at the Facility and the emissions of pollutants from the Facility, including sulfur dioxide ("SO2"), sulfuric acid mist, carbon monoxide ("CO"), nitrogen oxides ("NOx"), particulate matter ("PM"), Particulate Matter less than 10 micrometers in diameter ("PM10"), lead, mercury, and beryllium, threatens the environment in the vicinity of the Facility.

7. Petitioner commonly offers outings for the enjoyment and education of its members and the general public. Some of these outings take place in the area of the Facility in the Timucuan Preserve.

8. Two of Petitioner's purposes are to "explore, enjoy, and protect the natural and wild places of the Earth" and "promote responsible use of the Earth's ecosystems and resources

...." Due to the lack of protection being provided by DEP and the irresponsible use of resources being allowed by this Proposed Amendment, Petitioner has been forced to pursue this administrative remedy, which is allowed as another one of its purposes.

9. Therefore, Petitioner has substantial interests which will be affected by the issuance of the Proposed Amendment and which are the type of interests that chapter 403, Florida Statutes, was designed to protect.

10. Also, a substantial number of Petitioner's members ("Members") have substantial interests which will be affected by the issuance of the Proposed Amendment and which are the type of interests that chapter 403, Florida Statutes, was designed to protect. Members' interests that will be affected by the issuance of the Proposed Amendment include their health, welfare, property, and surrounding environment.

11. Some Members live in the vicinity of the Facility which has a stack height of 640 feet. Some of these are property owners.

12. Some Members fish, boat, and spend time outdoors in the vicinity of the Facility, not only recreating but also working.

13. Some Members have health problems which increase their sensitivity to pollutants.

14. Due to their living, working, and recreating in close proximity to the Facility, Members are impacted in a manner beyond the injury which might be sustained by the general public.

15. The burning of petcoke at the Facility will increase the emissions of several pollutants which can cause harm to human health, welfare, and the environment. Some of these pollutants include SO2, CO, and nickel.

16. Members' health and welfare, their property and/or the environment, will be harmed by the increase in the emissions of pollutants from the Facility allowed by the Proposed Amendment, including SO2, CO, and nickel.

17. Because Members live, work, recreate, and/or own property in the vicinity of the Facility, they are potentially subject to incidents resulting from any mismanagement of the burning of petcoke at the Facility which may arise due: (1) to the Department's erroneous factual determinations concerning prevention of signification deterioration ("PSD") and best available control technology ("BACT"), as required by Rule 62-212.400, FAC; (2) the Department's failure to take into account JEA's environmental record, as required by Rule 62-4.070, FAC; and (3) the Department's failure to impose permit conditions that ensure that Members and the environment will not be harmed, as required by sections 403.021, 403.031, and 403.061, FS.

18. The injuries that Petitioner and/or its Members will suffer -- adverse impact to health, property, and environment -- are clearly of the type or nature which this proceeding, based upon chapter 403, FS, is designed to prevent.

(d) Disputed Material Facts

19. Petitioner disputes the material fact that JEA has

affirmatively provided the Department with reasonable assurances that the burning of petcoke at the Facility will not discharge, emit, or cause pollution in contravention of sections 403.021, 403.031, 403.087, 403.161, FS, and Rules 62-212 and 62-296, FAC, as required by Rules 62-4.030, and 62-4.070, FAC, in regard to the following pollutants: SO2, NOx, CO, PM, PM10, sulfuric acid mist, lead, mercury, and beryllium.

20. Petitioner disputes the material fact that preliminary testing done in 1995 at the Facility ("1995 Testing") demonstrates that the existing air pollution control equipment is capable of controlling air emissions so that the co-burning of 20% petcoke with 80% coal at the Facility will not result in increased emissions of SO2.

21. Petitioner disputes the material fact alleged in the Legal Notice that the co-burning of 20% petcoke with 80% coal at the Facility: (1) will not result in increased emissions of NOx, CO, PM, PM10, and sulfuric acid mist; and (2) that there are provisions in the Proposed Amendment insuring that there will be no increases for NOx, CO, PM, PM10, and sulfuric acid mist.

22. Petitioner disputes the material fact that there will be no significant increase in actual emissions of the regulated pollutants found in Table 212.400-2, Regulated Air Pollutants -- Significant Emission Rates, FAC ("Table 2"), when 20% petcoke is co-burned with 80% coal.

23. Petitioner disputes the material fact that the Proposed Amendment ensures good combustion as required under the original

PSD permit ("Original Permit"), and which is necessary to provide assurances that co-burning petcoke at the Facility will not harm humans and the environment, as required by sections 403.021, 403.031, 403.061, and 403.161, FS.

24. Petitioner disputes that JEA has provided reasonable assurances or that the Proposed Amendment ensures that combustion will be "fine-tun[ed]" to optimize combustion and control CO, as required by the Original Permit, and sections 403.021, 403.031, 403.061, and 403.161, FS, and Rules 62-4.070(1).

25. Petitioner disputes that the Permit Application was complete as determined by the Department. Rule 62-212.200(20), FAC, defines "complete" as "[i]n reference to an application for a permit . . . the application contains all the information necessary for processing the application." All necessary information was not contained in the Permit Application, such as information about the baseline emissions of other Table 2 pollutants besides SO2.

26. Petitioner disputes that material fact that JEA satisfactorily answered questions four and five asked by A. Linero of DEP in a letter dated March 25, 1995.

27. Petitioner disputes that the Proposed Amendment contains adequate provision concerning the storage and handling of the petcoke.

28. Petitioner disputes that the continuous monitoring provisions of the Proposed Amendment are adequate to ensure that when burning petcoke the Facility will not discharge, emit, or cause pollution in contravention of sections 403.021, 403.031, and 403.161, FS, and Rule 62-212. Under Rule 62-212.400(1)(c), "the Department shall include appropriate conditions in each permit issued to ensure that the provisions of this [PSD/NSR] section are not violated." Rule 62-4.070(3), FAC, provides that "[t]he Department may issue any permit with specific conditions necessary to provide reasonable assurances that Department rules can be met."

29. Petitioner disputes the material fact that the proposed conditions for SO2 in the Proposed Amendment are enforceable as a practical matter or provide sufficient accuracy to ensure no increases in SO2.

30. Petitioner disputes that material fact that no new equipment is required to burn petcoke.

31. Petitioner disputes the material fact that there is insufficient credible data to develop a meaningful tons per year CO number for the Facility's units.

(e) Facts Warranting Reversal or Modification

32. On February 24, 1995, by means of the *Florida Times-Union*, DEP gave legal notice of its approval of the 1995 Testing. Such notice provided:

> However, if there is an actual emissions increase in pollutant emissions, SJRPP will not be allowed to fire a blend of petroleum coke and coal in the emissions

> unit without further PSD and/or [Nonattainment Air] NAA evaluation by the Department's Site Certification section and involved agencies/parties. (Emphasis added).

Though there were actual increases of SO2, SO3, and CO, no further PSD or NAA evaluation has occurred.

33. The Department has not taken into consideration JEA's environmental record as required by Rule 62-4.070, FAC. There are numerous instances in which standards have been exceeded at the Facility.

34. JEA has not affirmatively provided DEP with reasonable assurances that the burning of petcoke at the Facility as allowed in the Proposed Amendment will not discharge, emit, or cause pollution in contravention of sections 403.021, 403.031, 403.087, 403.161, FS, and Rules 62-212 and 62-296, FAC, as required by Rules 62-4.030, and 62-4.070, FAC in regard to the following pollutants: SO2, NOx, CO, PM, PM10, sulfuric acid mist, lead, mercury, and beryllium.

35. During the 1995 Testing, SO2 emissions increased when 20% petcoke was co-burned with coal as compared to when 100% coal was burned. Also, SO2 removal efficiency was only 73.4%, which is less than the 76% minimum removal efficiency required under the Proposed Amendment as well as the 92% maximum.

36. The change to allow co-burning of 20% petcoke will result in actual future increases in the emissions of SO2. In an attachment to a letter, dated April 4, 1996, to A. Linero of DEP, JEA stated that the actual representative emissions for SO2 over

the last two years have been .4 lb/MMBTU; the Proposed Amendment allows .55 lb/MMBTU and up to .676 lb/MMBTU of SO2 emissions when petcoke is co-burned with coal.

37. During the 1995 Testing, sulfuric acid mist emissions increased when 20% petcoke was co-burned with coal as compared to when 100% coal was burned.

38. The coal used in the co-burning part of the 1995 Testing contained less than 2% by weight sulfur and the petcoke less than 4% and so did not represent daily operations as allowed under the Proposed Amendment. If JEA could not achieve the 76% or 92% removal efficiency when using less than 2% by weight sulfur coal, there are no reasonable assurances that JEA could achieve 76% or 92% removal efficiency when using 4% by weight sulfur coal.

39. During the 1995 Testing, CO emissions increased when 20% petcoke was co-burned with coal as compared to when 100% coal was burned.

40. During the 1995 Testing, not all regulated pollutants found in Table 2 were measured. Not all of the pollutants that were measured were measured for all runs. For example, during the co-burning of petcoke, PM measurements were never taken when SO2 measurements were taken.

41. The Proposed Amendment fails to insure that there will be no increases for NOx, CO, PM, and sulfuric acid mist. The control of these pollutants is interrelated; the 1995 Testing did not demonstrate that all of these pollutants could be controlled

as required under the Proposed Amendment and Original Permit all at the same time.

42. The Proposed Amendment fails to ensure that combustion will be "fine-tuned" which is necessary: (1) to provide reasonable assurances that the burning of petcoke at the Facility will not harm humans and the environment as required by sections 403.021, 403.031, 403.061, and 403.161, FS; and (2) to provide assurances that there will be no actual increases in emissions of NOx and CO, and that permit conditions will be met, as required by Rules 62-4.030 and 4.070(1), FAC.

43. The Proposed Amendment amounts to a modification to a major facility, which requires PSD review under Rule 62-212.400, FAC, and which was not done.

44. The Proposed Amendment allows petcoke to have a sulfur content of over 4% by weight which violates the 4% limit placed on coal under the Original Permit which was part of the BACT determination for SO2.

45. The Proposed Amendment fails to adequately address metal emissions of arsenic, mercury, lead, nickel, and vanadium. Some of these are regulated pollutants under Table 2, and some may affect the performance of the electrostatic precipitator. Under Rule 62-212.400(1)(c), FAC, "the Department shall include appropriate conditions in each permit issued to ensure that the

provisions of this [PSD/NSR] section are not violated." Rule 62-4.070(3), FAC, provides that "[t]he Department may issue any permit with specific conditions necessary to provide reasonable assurances that Department rules can be met."

46. The Proposed Amendment contains inadequate provision concerning the storage and handling of the petcoke, as required by sections 403.021, 403.031, and 403.161, FS. Because petcoke contains metals and also because of its ease of grindability, closed storage and transport is required.

47. The continuous monitoring provisions of the Proposed Amendment are inadequate to ensure that the Facility will not discharge, emit, or cause pollution in contravention of sections 403.021, 403.031, and 403.161, FS, and Rule 62-212, FAC.

48. The burning of petcoke will result in significant net emission increases as defined in Rule 212.400, and Table 212.400-2, FAC, for at least SO2. Without the necessary baseline emission numbers for the other Table 2 pollutants, JEA has failed to provide reasonable assurances that the co-burning will not also result in significant emission increases for the other Table 2 pollutants.

49. There are different kinds of petcoke which contain different amounts of contaminants. The Proposed Amendment fails to contain specifications for the petcoke which results in a lack of reasonable assurances that the burning of petcoke will not cause pollution in contravention of sections 403.021, 403.031,

403.087, 403.161, FS and Rules 62-212, FAC, as required by Rules 62-4.030, and 62-4.070, FAC.

50. JEA has failed to submit necessary information, and this lack of information results in an incomplete application and in a lack of reasonable assurances that the proposed co-burning of petcoke will not discharge, emit, or cause pollution in contravention of sections 403.021, 403.031, 403.087, 403.161, FS, and Rule 62-212, FAC, as required by Rules 62-4.030, and 62-4.070, FAC. Without the following information, the Permit Application is incomplete:

(A) Representative actual annual emissions for all regulated pollutants in Table 2, not just SO2;

(B) A detailed analysis of the metal content of the petcoke, including the metals tested for in the baseline coal;

(C) Detailed analysis of the coal and the petcoke before they are blended;

(D) Data establishing that the air pollution control equipment can meet the removal efficiency required in the Proposed Amendment and while meeting other requirements;

(E) Data from the Facility establishing that there are no increases of emissions of pollutants due to the burning of petcoke: (1) when burning 20% petcoke by weight with a 4% by weight sulfur content and 80% coal with a 4% by weight sulfur content and (2) when taking the measurements of all regulated pollutants simultaneously, i.e., during the same run.

51. The Proposed Amendment should contain a more specific

condition for odor based on Rules 62-296 and 62-4.070(3), FAC.

(f) Rules or Statutes Warranting Reversal or Modification

52. Reversal or modification of DEP's proposed action is required by Rules 62-4, and 62-212, FAC, and by Sections 403.021, 403.031, 403.061, 403.087, and 403.161, FS.

(g) Relief Sought

53. Pursuant to 403.087, FS, and Rules 62-4, and 62-212, FAC, Petitioner requests that the Proposed Amendment be denied.

54. Alternatively, if the Proposed Amendment is not denied, and pursuant to sections 403.021, 403.031, 403.061, 403.161, and 403.087, FS, and rules 62-4, 62-212, and 62-296, FAC, Petitioner asks that the following additional conditions be made a part of such Amendment:

(A) Good combustion shall be ensured by setting limits for at least the following: (1) minimum temperature; (2) minimum residence time; (3) minimum oxygen content; (4) CO; and (5) THC.

(B) At a minimum, bi-annual, independent testing of air emissions is required;

(C) Any testing of emissions at the Facility shall be indicative of daily operations and shall be performed with 80% of the fuel consisting of coal and 20% of petcoke with a blended sulfur content of 4% by weight.

(D) Specifications for petcoke shall be established based on the content of the petcoke used for test burns.

(E) JEA shall install, operate, and maintain a computer data logging system meeting the following data record keeping and recording requirements. This operating data shall be available to DEP, Petitioner, and the public by modem. This operating data also shall be kept for at least three years at the Facility and be made available for inspection by DEP personnel and Petitioner upon reasonable request.

1. The system shall store hourly averages of one minute data samples for at least the following parameters: CO (ppmv); NOx (ppmv); SO2 (ppmv); oxygen concentration (%); ammonia (ppm); opacity (%); combustion temperature; stack gas flow (acfm); and stack gas temperature (in F).

2. The data logger shall calculate at least the following hourly pollutant emissions using the stack gas emission monitors, stack temperature, and stack flow and store the results of those calculations: NOx (lbs/hr); SO2 (lbs/hr); and CO (lbs/hr).

(F) A Monthly Report shall be prepared using information from the Data Logger and submitted to DEP. Such Report shall contain the following: total monthly emissions of nitrogen oxides, sulfur dioxides, and carbon monoxide (tons/month); and a listing of any exceedance of permit limits with date, duration, cause, and corrective action.

(G) For any testing required under the Proposed Amendment, JEA shall submit a written test plan for DEP's review and approval at least 30 days before the test date. Such test

plan shall contain at a minimum: the person who will be performing the test and his or her experience; the specific conditions under which testing will be performed, including a discussion of why these conditions will be representative of maximum emissions and daily operating conditions; and the exact date and time of the test.

(H) After any test is performed, copies of the Final Test Report for those tests shall be submitted to DEP within 14 days after the date the test results are compiled and finalized. The Final Test Report shall contain at a minimum: a summary of results; description of test methods; and detailed descriptions of test conditions, including process information, control equipment information, and a discussion of any preparatory actions taken.

(I) Before JEA is allowed to burn petcoke, JEA shall perform additional testing which must show no increases in the pollutants found in Table 2.

Conclusion

This Proposed Amendment should be denied. In the alternative, additional permit conditions should be required, in order to provide reasonable assurances that this proposed burning of petcoke will not cause pollution in contravention of chapter 403 and DEP standards or rules.

Dated: June 21, 1996

Priscilla Norwood Harris

Priscilla Norwood Harris
Florida Bar No. 0851574

P.O. Box 702
Green Cove Springs, FL 32043
Telephone: (904) 284-3367
Fax: (904) 284-4433

Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on June 21, 1996, a copy of the foregoing Amended Petition for Administrative Hearing was mailed by U.S. Mail to the following:

Jim Alves, Esq.
Hopping, Green, Sams & Smith
P.O. Box 6526
123 South Calhoun Street
Tallahassee, FL 32314-6507

Richard Breitmoser, P.E.
Vice-President
JEA
21 West Church Street
Jacksonville, FL 32202-3139

Jefferson M. Braswell, Esq.
Office of the General Counsel
Florida Department of Environmental Protection
The Douglas Building
3900 Commonwealth Blvd.
Tallahassee, FL 32399

DATED: June 21, 1996

Priscilla Norwood Harris

Priscilla Norwood Harris