

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

1. This Settlement Agreement ("Agreement") between the Northeast Florida Group, Sierra Club, ("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 ("SO<sub>2</sub>"), nitrogen oxides ("NO<sub>x</sub>"), and carbon monoxide ("CO") will be gathered simultaneously. Emissions data for particulate matter ("PM"), Particulate Matter less than 10 microns in diameter ("PM<sub>10</sub>"), and sulfuric acid mist will be gathered pursuant to EPA reference methodology at representative intervals during the same period when SO<sub>2</sub>, NO<sub>x</sub>, 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 SO<sub>2</sub>, NO<sub>x</sub>, PM, PM<sub>10</sub>, 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):

<u>POLLUTANT</u>	<u>BASELINE EMISSIONS</u>	<u>METHOD</u>
SO <sub>2</sub>	0.67 lbs/MMBTU	CEMS
NO <sub>x</sub>	0.527 lbs/MMBTU	CEMS
PM	0.0154 lbs/MMBTU	EPA Stack Test Methodology
CO	0.132 lbs/MMBTU	CEMS

The SO<sub>2</sub> 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 SO<sub>2</sub>, NO<sub>x</sub>, PM, PM<sub>10</sub>, 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 protocols 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 their respective parties.

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

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Pam Millard  
Chair  
Northeast Florida Group  
Sierra Club

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Gary Sams, Esq.  
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Date: \_\_\_\_\_