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STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

PUTNAM COUNTY ENVIRONMENTAL
COUNCIL, INC.; STEWARDS OF THE
ST. JOHNS RIVER, INC., and LINDA YOUNG,

Petitioners,

v.

GEORGIA-PACIFIC CORPORATION
and FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

Respondents.

DOAH CASE NO.: 01-242
OGC CASE NO.: 01-0866

DIVISION OF
ADMINISTRATIVE
HEARINGS

DEC 10 1 48 PM '01

FILED

DRA

**MOTION FOR RECONSIDERATION OF ORDER GRANTING
SUPPLEMENTARY PREHEARING INSTRUCTIONS**

Petitioners, PUTNAM COUNTY ENVIRONMENTAL COUNCIL, INC.

(PCEC) and STEWARDS OF THE ST. JOHNS RIVER, INC. (STEWARDS), move
the Administrative Law Judge to reconsider the supplemental order dated 13 November
2001 and aver:

1. The undersigned attorney was misled by counsel for GEORGIA-PACIFIC CORPORATION (GP) who stated that LINDA YOUNG (YOUNG) agreed to all elements of the relief requested in GP's Motion for Supplementary Prehearing Instruction when in fact she did not. The undersigned agreed to the proposed order only because of the misrepresentation. Thus, it was not correct to find that only YOUNG opposed certain portions of the requested relief as the other petitioners withdrew their agreement soon after the truth was discovered. See attached copy of a letter dated 2 November 2001. It is not right to reward such deceitful tactics.

2. Moreover, these petitioners submit that the procedures objected to by

YOUNG (paragraphs 1 and 2 of GP's proposed Supplementary Order), in addition to their oppressive nature as detailed in YOUNG'S motion to strike and response, are contrary to some of the "principal objectives" of administrative hearings such as: "the right to present viewpoints and to challenge the view of others [and] the right to develop a record which is capable of court review." See *Friends of the Hatchineha, Inc. v. Dept. of Environmental Regulation*, 580 So.2d 267, 221 (Fla. 1st DCA 1992). Furthermore, since it is well settled that an agency can change its position on a permit application at any time during the proceedings or even after, it is ill advised to require such rigid and burdensome requirements of proof so long before the actual testimony is taken. See, e.g. *1800 Atlantic Developers v. Dept. of Environmental Regulation*, 552 So.2d 946 (Fla. 1st DCA 1989), *rev. den.* 562 So.2d 345; *Santa Fe Pass, Inc. v. State Dept. of Environmental Regulation*, 520 So.2d 618 (Fla. 1st DCA 1988).

3. Written summaries of expert testimony is not typically required in state proceedings (in contrast with Federal cases) nor are they mandated in the evidence code. These petitioners suggest that the procedures formulated by GP will prevent rather than promote a full presentation of facts and opinions and are more likely to cause, rather than eliminate, evidentiary problems.

4. For all of the reasons above, these petitioners request that the Administrative Law Judge order a telephonic hearing to reconsider the portions of the order objected to by all parties.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that an original and one copy of the foregoing have been filed by U.S. mail with the Hon. Donald R. Alexander, Administrative Law Judge, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32399-3060; and that a copy of the foregoing has been furnished to Jeffrey Brown, JD, Attorney for Georgia-Pacific Corporation, Post Office Box 1110, Tallahassee, Florida 32302-1110 and Francine M. Ffolkes, Department of Environmental Protection, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000 by U.S. mail on this 6th day of December 2001.

KEYSER & WOODWARD, P.A.
Attorneys for Petitioners,
Putnam County Environmental
Council, Inc. and Stewards of
the St. Johns River, Inc.

By:



TIMOTHY KEYSER

Florida Bar Number: 181740

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TIMOTHY KEYSER, J.D.
MICHAEL W. WOODWARD, J.D., M.A., M.ED.
JEAN DESROSIERS MOYER, J.D.

TELEPHONE 386-684-4673
FACSIMILE 386-684-4674

2 November 2001

Mr. Jeffrey Brown
Attorney at Law
Post Office Box 1110
Tallahassee, Florida 32302-1110

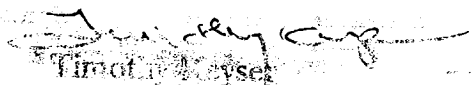
By facsimile transmission to (850) 521-0720
and U.S. mail

RE: Putnam County Environmental Council, Inc. v. Georgia-Pacific Corporation
DOAH Case No.: 01-2442
OGC Case No.: 01-0866

Dear Jeff:

Based upon recent conversations I had with Linda Young, I hereby withdraw my stipulations to paragraphs (1) and (2) of your letter dated 5 October 2001.

Sincerely,

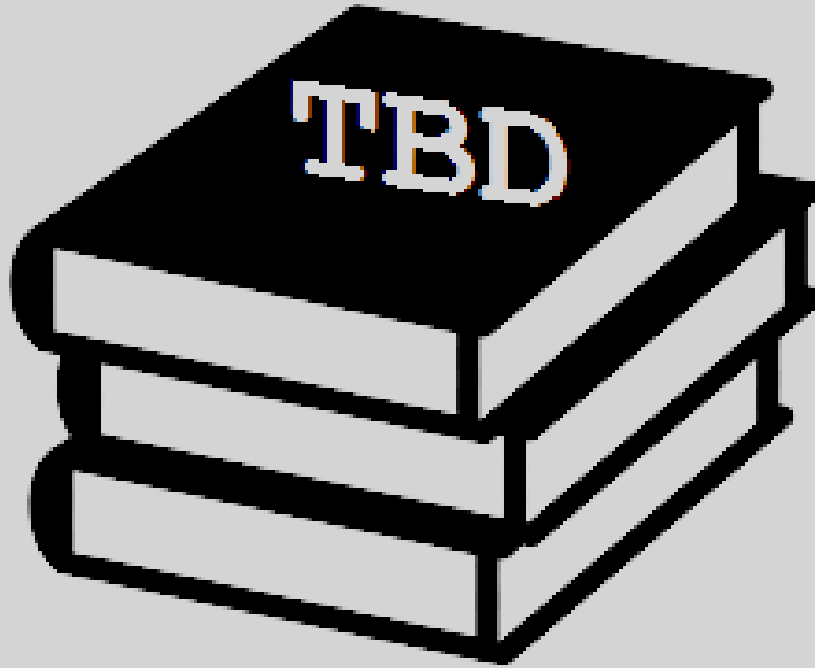

Timothy Keyser

TK/mdw
enclosures
c: Linda Young
Francine M. Ffolkes, JD

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