

L. K. Ireland, Jr.
SECRETARY OF ADMINISTRATION

STATE OF FLORIDA

Department of Administration

Office of The Secretary

ROOM 530, CAHLTON BLDG.

TALLAHASSEE

32304

Reubin O'D. Askew
GOVERNOR

October 29, 1974

Roy C. Young, Esquire
BROWN SMITH YOUNG & PELHAM, P.A.
Post Office Box 1833
Tallahassee, Florida 32302

Chairman of the Board
County Commissioners
Manatee County Courthouse
Bradenton, Florida 33505

Tampa Bay Regional Planning Council
3151 Third Avenue, North
St. Petersburg, Florida 33713

In re: BEKER INDUSTRIES CORP.-
DRI Appeal

Gentlemen:

This is to inform you that today the Florida Land and Water
Adjudicatory Commission took the following action in the above entitled
DRI Appeal:

Based upon the Recommendation of the Hearing Examiner, Fletcher
N. Baldwin, the appeal was dismissed, the Appellant having requested that
his notice of appeal be withdrawn.

Sincerely,

L. K. Ireland, Jr.
L. K. Ireland, Jr.

LKIjr/Kct

cc: The Governor and Cabinet Members
Louis F. Hubener, III
Central File
Roger S. Tucker, Esquire
Fletcher N. Baldwin, Esquire

BROWN, SMITH, YOUNG & PELHAM, P. A.

ATTORNEYS AT LAW

GENE D. BROWN
JAMES C. SMITH
ROY C. YOUNG
THOMAS G. PELHAM
DANIEL J. WISER
KEN VANASSENDERP

POST OFFICE BOX 1933
SUITE 740, BARNETT BANK BUILDING
TALLAHASSEE, FLORIDA 32302
TELEPHONE (904) 222-7206

October 1, 1974

Mr. Fletcher N. Baldwin, Jr.
Hearing Officer
Department of Administration
Room 301, Holland Law Center
Gainesville, Florida 32611

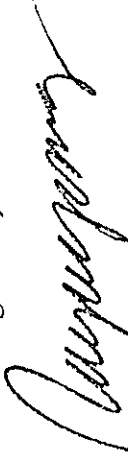
Re: Beker DRI Appeal

Dear Mr. Baldwin:

After a full and complete discussion of all the alternatives and possibilities with all interested parties in the above mentioned matter, the appellant has made the decision to withdraw the appeal. I am enclosing a notice to effectuate this purpose. This is probably all that is needed to terminate the Appeal, however, you may wish to issue an order dismissing same.

I appreciate your understanding and consideration in allowing all of us the opportunity to explore possible areas of agreement. Your understanding and consideration is most appreciated.

Best regards,


Roy C. Young

RCY/gaa

Enclosure

cc: Chairman of the Board
Manatee County Commissioners

Mr. Louis F. Hubener, III
Mr. Roger S. Tucker
Mr. David Kerns
Mr. Richard A. Hampton
Tampa Bay Regional Planning Council
Mr. Lewis G. Bartow
Mr. John P. Harllee, III

STATE OF FLORIDA
LAND AND WATER ADJUDICATORY COMMISSION

IN RE:

Lewis G. Bartow, as authorized
agent for Beker Industries Corp.,
a Development of Regional Impact
in Manatee County

Docket No. _____

DRI #15

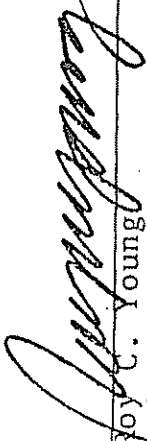
NOTICE OF WITHDRAWAL OF APPEAL

Lewis G. Bartow, as authorized agent for Beker Industries Corp., by his undersigned attorneys, hereby withdraws his Notice of Appeal filed herein on June 28, 1974, and requests that the Florida Land and Water Adjudicatory Commission DISMISS this Appeal.

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were served this 1st day of October, 1974, by mail, upon the following:

1. Fletcher N. Baldwin, Jr.
Hearing Officer
Holland Law Center, Room 301
Department of Administration
Gainesville, Florida 32611
2. Louis F. Hubener, III
Division of State Planning
660 Apalachee Parkway
IBM Building
Tallahassee, Florida 32304
3. Chairman of the Board
County Commissioners
Manatee County Courthouse
Bradenton, Florida 33505
4. Central File
David Kerns
530 Carlton Building
Tallahassee, Florida 32304
5. Tampa Bay Regional Planning
Council
3151 Third Avenue, North
Suite 540
St. Petersburg, Florida 33713
6. Roger S. Tucker, Esq.
3151 Third Avenue, North
Suite 511
St. Petersburg, Florida
33713


Roy C. Young
BROWN, SMITH, YOUNG & PELHAM, P.A.
Post Office Box 1833
Tallahassee, Florida 32302

Attorneys for Appellant

MANATEE COUNTY, FLORIDA

PLANNING DEPARTMENT
212 - 6th Ave. E., Bradenton, Fla. 33505
Telephone 747-4404 & 746-0425

May 30, 1974

Mr. Bill Busick
Tampa Bay Regional Planning Council
3151 Third Avenue North
St. Petersburg, Florida

Dear Bill:

Attached are copies of the Development Orders as approved by the Board of County Commissioners with respect to application from Florida Power and Light and Beker Industries.

Sincerely,

Arthur Fischer
Arthur Fischer
Planning Director

AF/vc

Enclosures:

RECEIVED

MAY 31 1974

TAMPA BAY REGIONAL
PLANNING COUNCIL



PLANNING A DYNAMIC COMMUNITY

DRI DEVELOPMENT ORDER

On April 11th, 1974, Lewis G. Bartow, as authorized agent for the owners of the real property described in Exhibit "A", attached hereto and made a part hereof, filed an application with Manatee County, Florida, under the provisions of Chapter 380, Florida Statutes, for development approval to mine phosphate upon the real property described in Exhibit "A".

Pursuant to the authority vested in it by Florida Statute 380.06 (8), the Tampa Bay Regional Planning Council has filed with Manatee County, Florida, a report concerning said application. The report recommends that the application be denied.

Pursuant to all procedural requirements of Florida Statute 380.06 (7) and the Manatee County Zoning Ordinance a public hearing was held by the Manatee County Planning Commission concerning said application on May 1, 1974. The Manatee County Planning Commission has recommended that the application be approved with certain conditions.

After careful consideration of the reports submitted by the Tampa Bay Regional Planning Council the recommendations of the Manatee County Planning Commission, the documentary and oral evidence presented to the Planning Commission and the evidence presented to the Board of County Commissioners at a public meeting held on May 28th, 1974, the Board of County Commissioners of Manatee County, Florida, hereby finds and determines:

1. The development is not located in an area of critical state concern.
2. The State of Florida has not adopted a land development plan which is applicable to this area.
3. The development is not consistent with the land development regulations of Manatee County, Florida, for the following reasons:

15/4
10-74-15

The land described in Exhibit "A" is located within an A-General Agricultural District. Mining is prohibited in an A-General Agricultural District unless a special exception for same is granted in accordance with Section VI, Paragraph 14 of the Manatee County Zoning Ordinance, which reads in part:

"14. Special Exceptions: Prior to granting a special exception the Planning Commission and the governing body shall find:

- (a) That the use will be reasonably compatible with surrounding uses.
- (b) That any nuisance or hazardous feature involved is suitably separated and buffered from adjacent uses."

The evidence submitted in this case clearly shows that:

(a) A large portion of the land to be mined lies within the Manatee River Water Shed.

(b) Located in the Manatee River Water Shed downstream from the proposed mining operation is the Manatee County reservoir which provides a vitally needed water supply for a large portion of the population of Manatee County, Florida, and is soon to supply water to a large portion of the population of Sarasota County, Florida.

(c) The Division of Health, Department of Health and Rehabilitative Services, State of Florida and the Manatee County Health Department are of the opinion that the mining of phosphate rock in the Manatee River Water Shed would not be compatible with the prior use of a portion of that Water Shed as a reservoir for a public water supply. These Departments have further advised that there are hazardous features to the mining of phosphate in the Water Shed which could adversely affect the public water supply.

(d) The applicant has conceded that detailed hydrological studies are necessary in order to determine what effect their proposed mining operation would have upon the water quantity of surrounding lands. Applicant's argument that Manatee County should grant the special exception and withhold the granting of a mining permit until these studies are

completed, ignores the fact the the Manatee County Zoning Ordinance requires the Governing Body to make a finding of fact that the proposed use will be reasonable compatible with the surrounding uses. Such a finding of fact cannot be made prior to the completion of all necessary studies.

Therefore, this Board cannot make a finding that:

(a) That the use will be reasonably compatible with surrounding uses.

(b) That any nuisance or hazardous feature involved is suitably separated and buffered from adjacent uses.

4. The Water Resources Act of 1972, as amended, provides for the development of a water use plan for the State of Florida and for the issuance of permits for consumptive use of water. Exclusive jurisdiction to carry on these activities is vested in designated state agencies. For Manatee County to permit the proposed development to proceed prior to the adoption of the water use plan for this area of the state and prior to the implementation of a consumptive use permit procedure by the appropriate state agencies would be contrary to the purposes of said Act as expressed therein by the Legislature of the State of Florida.

5. This development would not be consistent with the report and recommendations of the Tampa Bay Regional Planning Council.

Therefore, in consideration of all of the foregoing, the application for development approval is hereby denied.

Ordered in special session at Bradenton, Florida,
this 30th day of May, 1974.

BOARD OF COUNTY COMMISSIONERS OF
MANATEE COUNTY, FLORIDA

By: Tim B. B. B.
Chairman

ATTEST: M. T. MC INNIS,
CLERK OF CIRCUIT
COURT

By: [Signature]
Deputy-Clerk

34S; Rge. 21 E - Manatee County, Florida
Sections 12, 13, 24, 25 and the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$
of Sec. 26, and all of Sec. 36, except R/W for
State Rd. 39.

Twp. 34S, Rge. 22E - Manatee County, Florida
Sec. 19, 20, 21, 28, 29, 31 and the N $\frac{1}{2}$ of Sec. 30.

Twp. 35S, Rge. 22E - Manatee County, Florida
In Sec. 6, that part of the N $\frac{3}{4}$ lying N of State
Road 64 and that part of the S $\frac{1}{2}$ of SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of
SE $\frac{1}{4}$ lying S of State Rd. 64, & the N $\frac{1}{2}$ of the NW $\frac{1}{4}$, &
the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Sec. 7.

Twp. 35S, Rge. 21E - Manatee County, Florida
The E $\frac{1}{2}$ of Sec. 12 and all of Sec. 1 less and except strip
conveyed to the State for Highway, also less that part of
SW $\frac{1}{4}$ lying S of State Rd. 64 & land described in Deed
Bk. 324, Pg. 152 of the Public Records of Manatee
County, Florida.

Exhibit "F"

STATE OF FLORIDA

COUNTY OF MANATEE

I, M. T. McInnis, Clerk of Circuit Court, Ex Officio Clerk, Board
of County Commissioners of Manatee County, Florida, do hereby certify
that the above and foregoing is a true copy of a Resolution adopted by
said Board in session on the 30th day of May 19 74.

WITNESS my hand and official seal this 30th day of
May 19 74 in Bradenton, Florida.

M. T. McInnis, Clerk of Circuit Court,
Ex Officio Clerk, Board of County
Commissioners, Manatee County, Florida

By M. T. McInnis
Deputy Clerk