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November 16, 2005

FILE NO:

By Email and Overnight Mail

Ms. Pam Bonrud
Executive Secretary
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

RE: In the Matter of the Filing by Superior Renewable Energy
LLC, et al., against Montana-Dakota Utilities Co. Regarding
the Java Wind Project, Docket No. EL04-016

Dear Ms. Bonrud:

I have enclosed the Supplemental Testimony of Jeff Ferguson and the Further Supplemental Testimony of Kenneth J. Slater in the above-captioned proceeding. A hard copy of these materials is also being sent to you by overnight mail. A copy of this letter and testimony are being sent (electronically and by overnight mail) to each of the parties on the service list.

Please call if you have any questions.

Very truly yours,

Linda L. Walsh
Counsel for Superior Renewable Energy LLC and Java LLC

cc: Service List

**BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE FILING BY)
SUPERIOR RENEWABLE ENERGY LLC ET AL.)
AGAINST MONTANA-DAKOTA UTILITIES CO.)
REGARDING THE JAVA WIND PROJECT) DOCKET NO. EL04-016**

**SUPPLEMENTAL TESTIMONY OF JEFF FERGUSON
ON BEHALF OF SUPERIOR RENEWABLE ENERGY LLC**

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Jeff Ferguson and my business address is 1600 Smith Street, Suite 4025, Houston TX, 77002.

Q. WHAT IS THE PURPOSE OF YOUR SUPPLEMENTAL TESTIMONY?

A. I will provide an update on matters that I discuss in my Direct and Rebuttal Testimony that were filed on January 6, 2005 and March 7, 2005, respectfully. Specifically, the purpose of my supplemental testimony is to (1) provide an update on the expected construction timeline for the Java Wind Project; (2) describe my role in the PPA negotiations with MDU since March 2005; and (3) describe my experience with the increases in costs of construction materials for the Java Project.

Q. WHAT IS THE EXPECTED CONSTRUCTION TIMELINE FOR THE JAVA PROJECT?

A. As soon as Java has a final PPA for the sale of capacity and energy, Superior will be able to move forward with the financing and construction of the project. Until Java has an executed PPA, there are too many uncertainties for Superior to obtain financing.

Q. WHAT HAS BEEN YOUR ROLE IN THE NEGOTIATIONS WITH MDU SINCE MARCH 2005?

A. I was responsible for conducting the settlement negotiations with MDU. Specifically, I was assigned to work with Andrea Stomberg at MDU with the hope of finalizing a settlement of our dispute by completing negotiations for a power purchase agreement between Java LLC and MDU for the output from the Java Wind Facility. Immediately prior to the scheduled March 2005 hearing date, the parties had reach a tentative agreement as to the price of energy and capacity payable under such a contract and asked the Commission for a continuance of the hearing date. Negotiations continued, albeit at a slow pace.

During the time period of these negotiations, Superior's construction estimates (for the cost of turbines, among other things) took a sudden turn upward due to the sharp rise in the price of steel at that time. These cost increases are discussed further below. As a result, Superior determined that the price being negotiated at the time would no longer support Superior's construction costs. Increases in the price of steel were likely to increase MDU's avoided cost in a similar manner thus justifying an increase in the negotiated price. Nevertheless, MDU refused to consider further price negotiations at this point and the hearing was rescheduled to commence on August 2, 2005.

In July 2005, as the August hearing date approached, Superior was again encouraged with renewed progress on contract negotiations with MDU. Superior was able to get the negotiations back on track by proposing changes in the construction of certain transmission-related facilities that would reduce the cost of the project upgrades. At this point, Superior was encouraged enough to seek a further extension of the hearing date.

Shortly after August 8, 2005, Andrea Stomberg called me and said that MDU would no longer discuss a power purchase agreement with Superior for the Java Wind Facility because of

the enactment of amendments to PURPA in the Energy Policy Act of 2005. According to Ms. Stomberg, because of the PURPA amendment, MDU no longer had an obligation to purchase the output of the Java Project. MDU further indicated that it would seek a deferral of the proceeding in light of the new Section 210 of PURPA.

It is my understanding that the provisions of Section 210(m) were actually proposed in Congressional conference reports as early as 2003. MDU, however, never indicated to Superior (or this Commission) that it would use this provision to avoid a purchase obligation to Superior. Had Superior known that MDU was planning to suspend negotiations as soon as the 2005 Act was issued, Superior would never have sought an extension of the August hearing date.

Q. WHAT WAS YOUR REACTION TO MDU'S DECISION TO TERMINATE SETTLEMENT NEGOTIATIONS IN AUGUST 2005?

A. The negotiations proceeded very slowly, for reasons that I did not understand at the time. It now appears that MDU was engaging in a strategy to thwart the Java Wind Project from the time Superior first contacted MDU. The strategy has been to cause Superior to experience significant delay, extra expense and uncertainty with respect to the project. Delay, additional expense and uncertainty are conditions that are often fatal to the development of new generation projects.

From Superior's perspective, MDU wasted nearly five months of the parties' time and other resources engaging in an ultimately futile effort to rely on the Energy Policy Act to remove its obligation to purchase from the Java Project. By its own admission, MDU now says that the effort was futile. MDU's actions have caused Superior to incur significant legal and consultant expenses as a direct result of the delay in the procedural schedule in this proceeding. In addition, the cost of construction has increased significantly.

Q. WHY IS AN INCREASE IN YOUR COMPANY'S COSTS TO BUILD THE JAVA WIND PROJECT RELEVANT TO THIS PROCEEDING?

A. The increase in Superior's construction costs is relevant for several reasons. First, had MDU negotiated in good faith from the beginning, the parties could have reached an agreement on the rates, terms and conditions of a PPA much sooner and at much lower cost than they could today. As a result, MDU's ratepayers are not well-served by the delay. Second, Superior has requested reimbursement of attorneys fees and other costs in this proceeding. Third, to the extent that construction materials have gone up for the Java project, it follows that MDU would experience similar increases in the development of its own generation projects in the region.

Q. WHAT HAS BEEN YOUR EXPERIENCE REGARDING THE COST OF CONSTRUCTION MATERIALS SINCE MARCH 2005?

A. I am attaching as a single exhibit four charts showing the historical pricing of copper, aluminum, steel and cement since November of 2000. To be consistent with the numbering of the exhibits submitted with my direct and rebuttal testimony, I have marked these charts as Exhibit 6. As you can see from the charts, costs of these commodities have risen significantly since this proceeding began.

Q. WHAT IS THE STATUS OF THE INTERCONNECTION AGREEMENT BETWEEN JAVA PROJECT AND MDU?

A. The Interconnection Agreement among Java, MDU and the Midwest Independent Transmission System Operator, Inc., was accepted by FERC by letter order dated October 14, 2005 in Docket No. ER05-933-001. The Interconnection Agreement has an effective date of October 8, 2004.

Q. DOES THIS CONCLUDE YOUR TESTIMONY

A. Yes

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

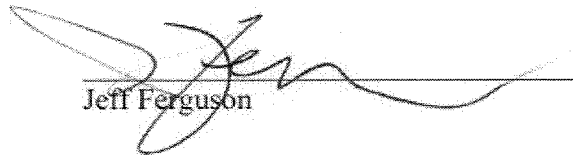
IN THE MATTER OF THE COMPLAINT FILED)
BY SUPERIOR RENEWABLE ENERGY LLC)
ET AL. AGAINST MONTANA DAKOTA)
UTILITIES CO. REGARDING THE JAVA)
WIND PROJECT)

Docket No. EL04-016

AFFIDAVIT


County of Harris
State of Texas

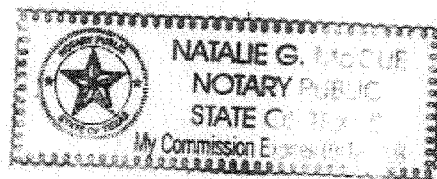
Jeff Ferguson, Chief Operating Officer of Superior Renewable Energy LLC, being first duly sworn, deposes and says that the Supplemental Testimony of Jeff Ferguson on Behalf of Superior Renewable Energy LLC submitted in the above-captioned proceeding was prepared by him, with the assistance of others working under his direction and supervision, that he is familiar with the contents thereof, and that the statements set forth therein are true and correct to the best of his knowledge, information and belief.


Jeff Ferguson

Subscribed and sworn before me

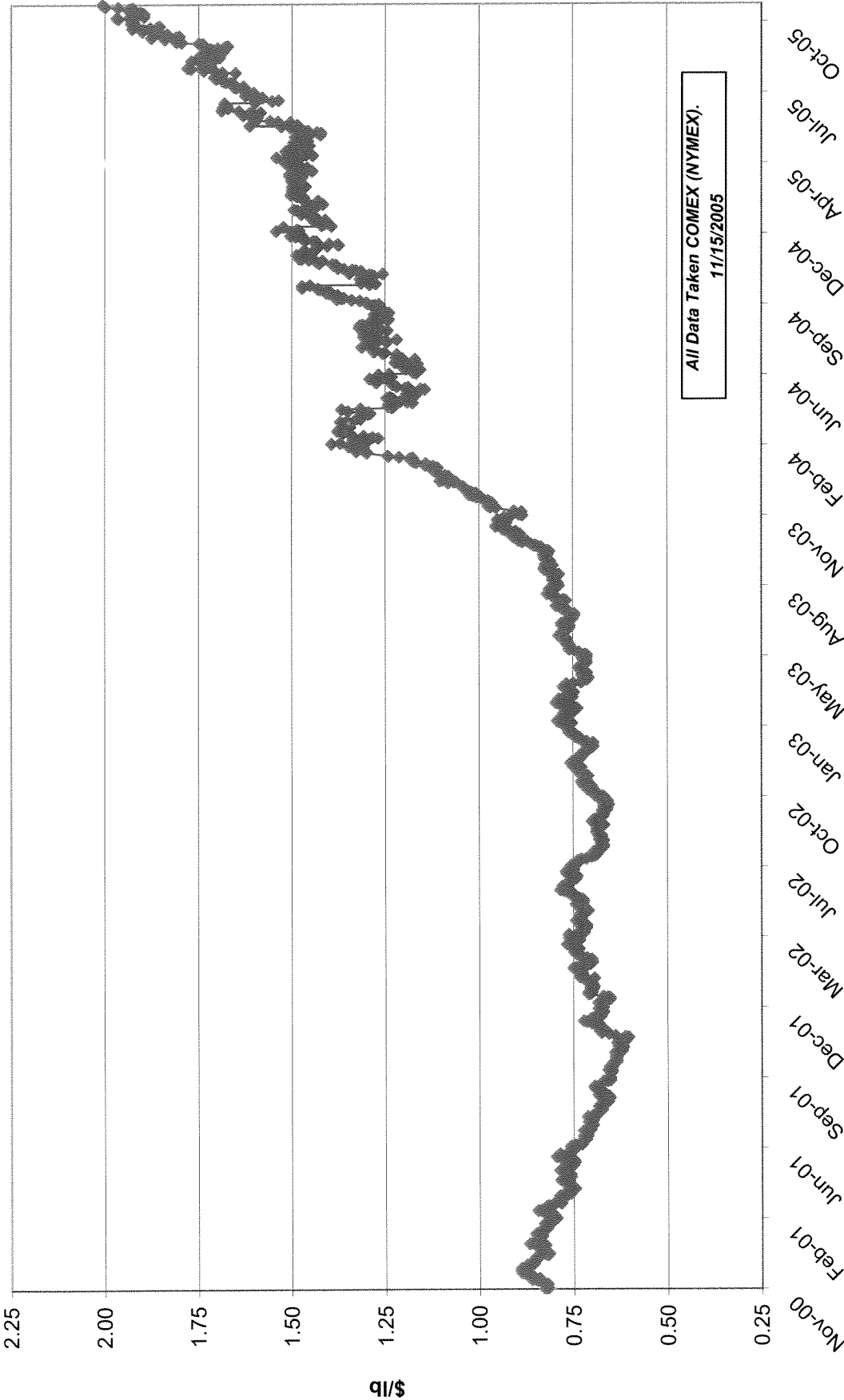
this 16th day of November 2005.


Notary Public

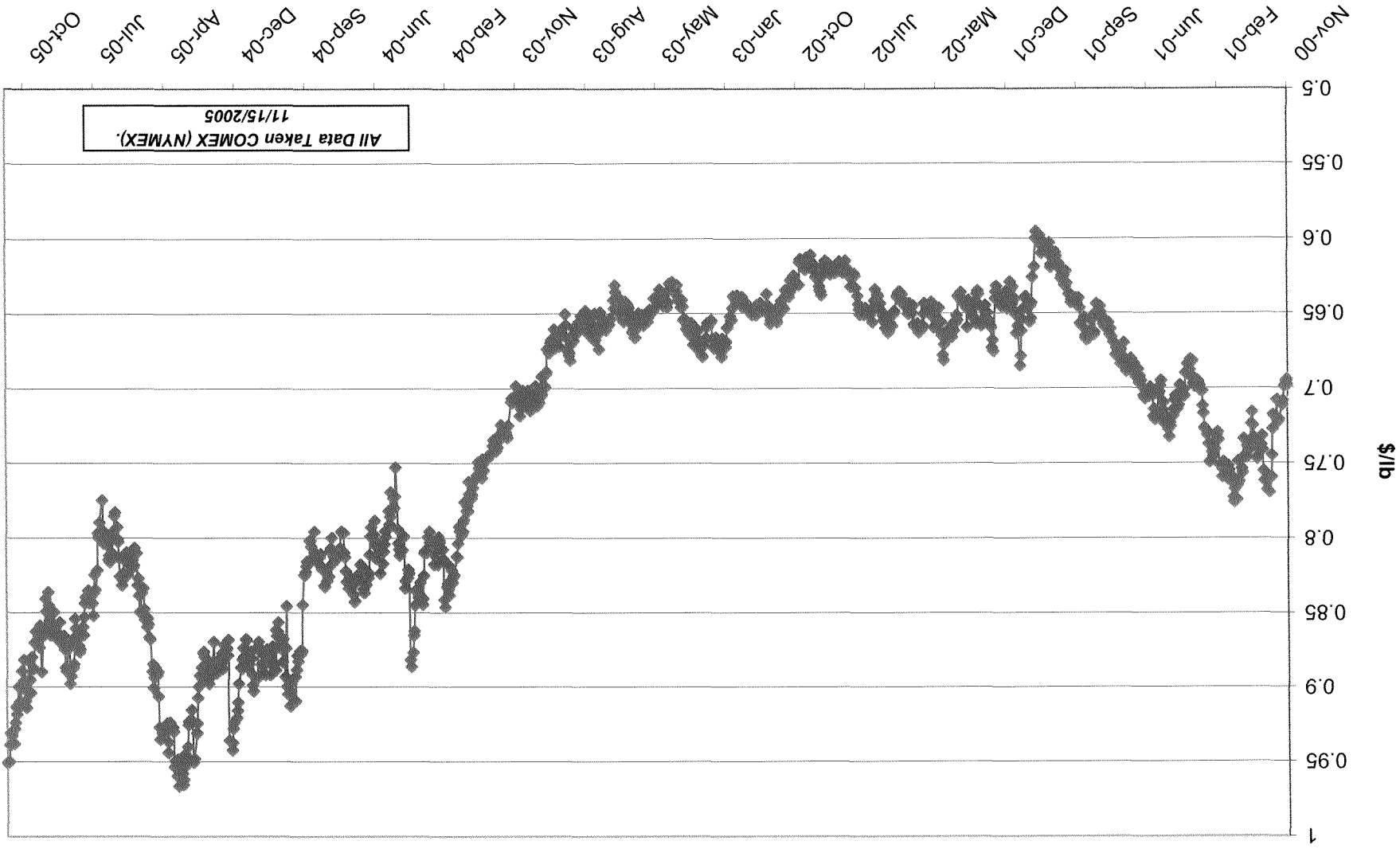


My Commission Expires: 03/12/2008

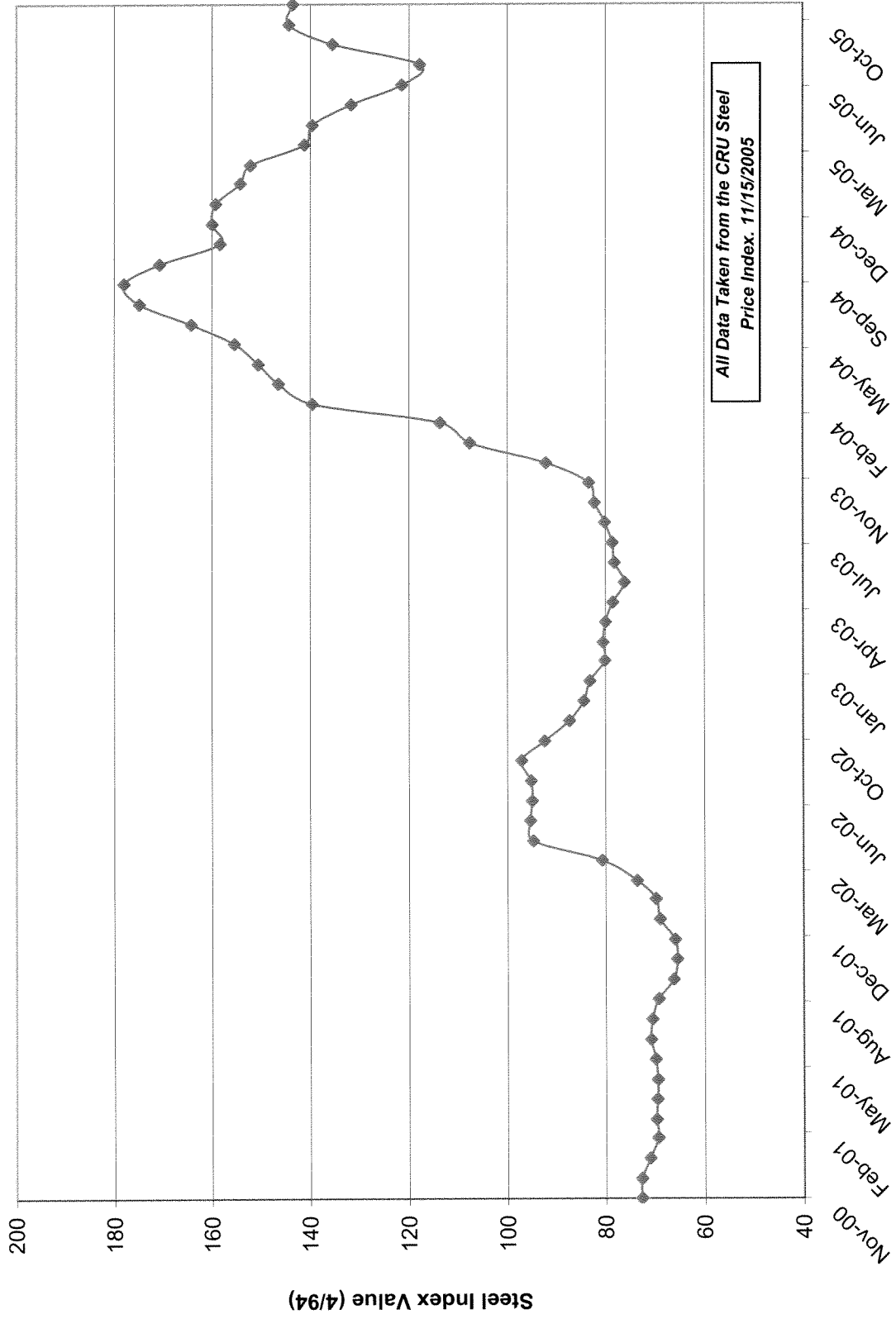
Historical Copper Pricing - November 2000 through November 2005



Historical Aluminum Prices - November 2000 Through November 2005



Historical Steel Index Trend - November 2000 Through November 2005



Historical Cement Index - October 2000 Through October 2005

