

THE STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF
ENVIRONMENTAL PROTECTION
JAN 05 2007
SITING COORDINATION

In Re: Seminole Electric Cooperative)
Seminole Generating Station Unit 3)
Power Plant Siting Application)
No. PA 78-10A2.)

DOAH CASE NO. 06-0929EPP

PREHEARING STIPULATION

Pursuant to the instructions of the Administrative Law Judge, counsel for the undersigned parties to this Power Plant Site Certification proceeding have entered into this Stipulation to clarify and simplify issues, to discuss the possibilities of resolution of any disputes, and to resolve other procedural matters related to the certification hearing scheduled for January 9 through 12, 2007. Accordingly, the parties hereto agree and stipulate as follows:

NATURE AND HISTORY OF THE PROCEEDING

History and Nature of the Proceeding

1. This is a certification proceeding conducted pursuant to the Florida Electrical Power Plant Siting Act ("PPSA"), Section 403.501, et seq., Florida Statutes ("F.S.") to determine, ultimately, whether the Siting Board should approve or deny Seminole Electric Cooperative, Inc.'s ("Seminole") request for certification to authorize construction and operation of the Seminole Generating Station Unit 3 Project ("Project").

2. On March 9, 2006, Seminole submitted to the Florida Department of Environmental Protection ("FDEP") its Application for Site Certification for the Seminole Generating Station Unit 3. Seminole's application is subject to review under the PPSA.

3. Comments on the sufficiency of the application were timely submitted by the Department of Environmental Protection, Department of Transportation, Department of Agriculture and Consumer Services, the Department of State, and the St Johns River Water

Management District. Seminole filed its responses to all agency sufficiency comments on June 26, 2006. The application was found sufficient on July 26, 2006.\

4. Pursuant to Section 403.519, F.S., the Florida Public Service Commission issued Order No. PSC-06-0674-FOF-EC, dated August 7, 2006, affirmatively determining the need for Seminole Unit 3 Project.

5. On June 1, 2006, a land use hearing was held for the purposes of determining whether the Unit 3 Project is consistent and in compliance with local land use plans and zoning ordinances of Putnam County. On August 31, 2006, the assigned Administrative Law Judge entered his Recommended Order concluding the Project and its site are consistent and in compliance with Putnam County's land use plans and zoning ordinances. On December 5, 2006, the Siting Board unanimously approved a final order adopting the Recommended Land Use Order and finding the Project to be consistent and in compliance with applicable land use plans and zoning ordinances. The Siting Board's Final Order on Land Use was signed by Governor Bush and issued on December 8, 2006.

6. The various reviewing agencies have submitted reports on the Project, and proposed conditions of certification. On November 9, 2006, FDEP issued its Staff Analysis Report on the Project, incorporating the reports of the reviewing agencies, recommending certification of Seminole Unit 3 Project subject to a comprehensive set of Conditions of Certification.

7. On November 25, 2006, notice of the certification hearing was published in the Palatka Daily News, a newspaper of general circulation with the largest daily circulation in Putnam County and has its principal office in that County. Notice of this certification hearing was also published by FDEP in the Florida Administrative Weekly on November 22, 2006.

8. The Seminole Generating Station (SGS) currently is comprised of existing Units 1 and 2, which are coal-fired generating units, and associated facilities. The SGS site and Units 1 and 2 were certified under the PPSA in 1979. The SGS site is located in Putnam County.

9. Seminole's proposed Unit 3 will provide approximately 750 megawatts (MW) of additional electrical generating at Seminole's existing SGS site. The Unit 3 Project consists of a supercritical pulverized coal steam electric generating unit and ancillary facilities to be located within the existing certified site. Construction and operation of the Unit 3 facilities will occupy approximately 220 acres within the existing site. New ancillary facilities include a new cooling tower, pollution control equipment and combustion byproduct handling systems, water pipelines and pumps to be located on the Station site. There will be no new offsite linear facilities, such as electrical transmission lines required for Unit 3.

10. In addition to applying for certification under the PPSA, Seminole applied to the Department for a federally-required Prevention of Significant Deterioration (PSD) permit for the proposed Unit 3 Project.

11. As part of the PSD permitting process, the Department is required to determine what is Best Available Control Technology (BACT) for specified air pollutants, and whether the Unit 3 project will satisfy the BACT requirement for purposes of issuing the PSD permit.

12. The Department determined BACT for specified air pollutants in conjunction with issuance of a proposed PSD permit issued on August 24, 2006. The Department determined that the proposed Unit 3 project meets BACT requirements for purposes of the PSD permit, and also determined that the Unit 3 Project would not cause or contribute to violations of National and State Ambient Air Quality Standards.

13. In conjunction with issuance of the draft PSD permit, the Department provided a point of entry under Chapter 120, Florida Statutes, to persons whose substantial interests would be affected by the issuance of a PSD permit for the Unit 3 project.

14. No persons timely initiated Chapter 120, Florida Statutes proceedings contesting the Department's proposed agency action on the Unit 3 PSD permit. Accordingly, the Department's final action of the PSD permit for Unit 3 cannot be contested, is not subject to an administrative challenge, and is not at issue in the final PPSA hearing in this matter.

15. Evidence concerning the BACT and expected air emissions from the Unit 3 Project presented at the certification hearing shall be offered solely for the purpose of determining whether Seminole has met its burden under the Power Plant Siting Act in order to obtain certification of the Seminole Generating Station Unit 3. Such evidence may be presented for the limited purpose of showing, pursuant to Section 403.502, F.S., and Rule 62-17.141(1), F.A.C., that:

- a) The certification ensures, through available and reasonable methods that the location and operation of the electrical power plant will produce minimal adverse effects on human health, the environment, the ecology of the land and its wildlife, and the ecology of state waters and their aquatic life and will not unduly conflict with the goals established by the applicable local comprehensive plans.
- b) The certification will fully balance the increasing demands for electrical power plant location and operation with the broad interests of the public.
- c) The certification will assure the citizens of Florida that operation safeguards are technically sufficient for their welfare and protection.

- d) The certification will effect a reasonable balance between the need for the facility and the environmental impact resulting from construction and operation of the facility, including air and water quality, fish and wildlife, and the water resources and other natural resources of the state.\

16. The Department and Seminole agree that pursuant to Section 403.509(3), F.S., the issuance of a Certification Order by the Siting Board in this case shall not displace, control, or otherwise determine any aspects of the Department's authority as the permitting entity in ruling on the pending PSD permit for Unit 3.

STATEMENT OF EACH PARTY'S POSITION

Seminole Electric Cooperative, Inc.

The Seminole Generating Station Unit 3 Project, the subject of this proceeding, is described fully and its impacts addressed in the Site Certification Application filed by Seminole, as well as by the subsequent responses to agency's sufficiency request submitted by Seminole and the evidence to be presented at the certification hearing, and generally includes the following:

1. Seminole Electric Cooperative, Inc. is a member-owned generation and transmission electric cooperative. Seminole supplies power to ten member electric cooperatives throughout Florida. These cooperatives primarily serve rural areas of the State. Seminole's members currently serve approximately 1.6 million customers throughout the State.

2. The existing Seminole Generating Station site is located in the unincorporated area of Putnam County, Florida. The Seminole Generating Station Site and the existing two steam electric generating units, Units 1 and 2, were certified under the Power Plant Siting Act in 1979. The existing units have operated reliably since 1984 under the conditions of certification

imposed under that certification and within the level of environmental and other impacts authorized by that certification.

3. In this proceeding, Seminole is seeking certification to construct and operate a new nominal 750 MW coal-fired electrical generating unit at Seminole's existing Seminole Generating Station in Putnam County, Florida. The new Unit 3 will burn coal as its primary fuel with up to 30% petroleum coke. These are the same fuels as burned in the existing two units. The new Unit 3 will employ state-of-the-art emission controls and recycling equipment, which will achieve the emission limits established by the regulatory agencies, principally the Florida Department of Environmental Protection. By coordinating the new Unit 3 with significant pollution control retrofits on the existing Units 1 and 2, Unit 3 will provide about 60% more electric power from Seminole's existing site while reducing air emissions of sulfur dioxide (SO₂), nitrogen oxides, (NO_x), sulfuric acid mist, and mercury. Emissions from the new Unit 3 will comply with the state's ambient air quality standards and requirements.

4. Seminole Unit 3 will utilize a new mechanical draft cooling tower for heat dissipation. Makeup water to the cooling tower and for other uses will be withdrawn from the St. Johns River, which is the existing authorized source of cooling and process water for Units 1 and 2. There is reasonable assurance that the proposed additional withdrawals from the St. Johns River for Unit 3 will not interfere with or adversely affect any existing legal users; will not cause harm to or adversely impact existing off site land uses; and will not cause harm to or adversely impact natural resources. The St. Johns River Water Management District has concurred in this conclusion. Cooling tower blowdown for Unit 3 will be discharged to the St. Johns River at the same location where cooling tower blowdown for Units 1 and 2 is currently discharged. Upon commencement of the operation of Unit 3, Seminole will install a zero liquid discharge

wastewater system that will reduce industrial wastewater discharges from all three units, thereby eliminating a portion of the current discharges from the site and reducing mass loading to the St. Johns River from the Seminole Generating Station Site.

5. Reuse of synthetic gypsum, fly ash, and bottom ash from Unit 3, as is currently done for Units 1 and 2, will minimize solid waste disposal at the Seminole Site. There are existing markets and reuse opportunities for all of the materials and Unit 3 is being designed to maximize these opportunities. Each ton of material beneficially reused results in a ton of material that is not required to be landfilled.

6. It is Seminole's position in this proceeding that Seminole Generating Station Unit 3 Project should be certified by the Siting Board as being in compliance with the provisions of the Florida Electrical Power Plant Siting Act, Chapter 403, Part II, Florida Statutes and Chapter 62-17, Florida Administrative Code, which implements the Act, as well as all applicable non-procedural requirements of the agencies having review authority over the Project, subject to appropriate Conditions of Certification. The Seminole Generating Station Unit 3 Project, as designed and represented in the Site Certification Application, as well as by the subsequent responses to the agency's sufficiency requests submitted by Seminole and the evidence to be presented at the certification hearing, can comply with the Conditions of Certification proposed by FDEP.

Florida Department of Environmental Protection

The Department of Environmental Protection has reviewed Seminole's application for site certification for the Seminole Generating Station Unit 3 Project. It is the Department's position that Seminole's application for site certification for the Project should be granted in accordance with Conditions of Certification proposed by the Department of

Environmental Protection. The proposed electrical generating facility meets all requirements of the Florida Electrical Power Plant Siting Act, Section 403.501, et seq. If these conditions are observed by Seminole, the construction and operation of the Project will have minimal adverse effects on the environment and serve the broad interests of the public.

The Department has prepared a report, pursuant to Section 403.5074, F.S. That report indicates that, as proposed, the electrical power plant will be in compliance with the rules of the Department, as well as all applicable non-procedural requirements of the agencies having review authority over the Project, subject to appropriate Conditions of Certification. In the report, the Department also includes proposed conditions of certification which the Department believes should be imposed.

Department of Community Affairs

The Florida Department of Community Affairs ("DCA") does not object to the certification of the Project subject to the inclusion of the Conditions of Certification stated in FDEP's Staff Analysis Report.

Department of Transportation

The Florida Department of Transportation ("DOT") does not object to the certification of the Project subject to the Conditions of Certification proposed by DOT in this proceeding and inclusion of the Conditions of Certification stated in DOT's revised agency report dated October 30, 2006, in the final Conditions of Certification.

Florida Public Service Commission

The Public Service Commission will not attend the certification hearing and takes no position on the issues to be addressed at that hearing.

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Florida Fish and Wildlife Conservation Commission

The Florida Fish and Wildlife Conservation Commission does not object to certification of the Project.

St. Johns River Water Management District

The St. Johns River Water Management District ("SJRWMD") does not object to the certification of the Project subject to the Conditions of Certification proposed by SJRWMD in this proceeding and inclusion of the Conditions of Certification stated in SJRWMD's agency report dated October 11, 2006, in the final Conditions of Certification.

Northeast Florida Regional Planning Council

The Northeast Florida Regional Planning Council ("NCFRPC") takes no position as to whether or not the Project should be certified.

City of Ocala

Putnam County

Putnam County supports the certification of the Project.

Marion County

Union County

Columbia County

Clay County

Sierra Club

The proposed Unit 3 does not meet the criteria for certification because the large emissions and discharges of pollutants will contribute to global warming, adversely impact public health and harm the environment. In addition, Seminole is not proposing the best available control technology for emissions nor are the testing requirements adequate to ensure enforceability.

Also, the quantification and reporting of actual emissions is not accurate and exemptions for startup, shutdown, and malfunctions are not legal. Finally, PSD review for mercury was improperly avoided and the environmental impact analysis is inadequate.

Sierra Club does not agree with paragraphs 13, 14, and 15 above under the heading "Nature and History of the Proceeding."

EXHIBITS

Seminole Electric Cooperative, Inc.

1. SECT's Site Certification Application for the Seminole Generating Station Unit 3 Project (Volumes 1, 2 and 3) – March 2006
2. SECI's Sufficiency Responses, filed June 2006
3. Prehearing Stipulation for certification hearing
4. PSC Final Order Granting Determination of Need, issued August 7, 2006
5. Siting Board's Final Certification Order, September 18, 1979
6. Prefiled Testimony and Exhibits of SECI Witnesses
7. Seminole's Member Cooperatives (Figure 1.2.0-1)
8. Our Opportunity: Add capacity at Seminole Generating Station and improve the plant's performance at the same time
9. Final Air Permit No. 1070025-004-AC for Units 1 and 2, June 21, 2006
10. How Pulverized Coal Plant Generates Electric Power
11. Proposed Air Pollution Control Equipment
12. BACT Emission Limits for Unit 3
13. Non-BACT Emission Limits for Unit 3
14. Maximum Air Quality Impact Compared to Ambient Air Quality Standards
15. Maximum Predicted Noise Impacts At Nearest Current Residential Area
16. Application for Environmental Improvements for Units 1 and 2
17. Request for Modification (February 2006)
18. Order Modifying Conditions of Certification (September 6, 2006)
19. Determination of Completeness, dated March 24, 2006
20. Notice of Insufficiency, dated May 15, 2006

21. Letter to Oven enclosing Responses to Insufficiency, dated June 30, 2006
22. Determination of Sufficiency, dated July 26, 2006
23. Air Pollution Control Slides
24. NPDES Permit
25. New zero discharge slide
26. Voluntary Reporting of Greenhouse Gases (2005 Data)
27. Easement
28. Amendment to Easement 2899
29. Site Location Maps (Figure 1.3.0-1)
30. Topographical Maps (Figure 2.1.1-1)
31. USGS Quadrangle Map
32. Units 1 and 2 Aerial Photograph
33. Artist Rendering (Figure 3.2.0-2)
34. Intake pipe
35. Aerial Photo (Figure 2.1.2-1)
36. State Comprehensive Plan, Chapter 187, F.S.
37. Northeast Florida Regional Planning Council Strategic Regional Policy Plan
38. Aerial Photo of Plant Entrance
39. Putnam County Ordinance No. 2006-02
40. Putnam County Comprehensive Plan
41. Putnam County Land Development Code
42. FWCC Permit #WR06361, dated 10/13/06
43. Planned Unit Development
44. Schematic Diagram of Unit 3 Supercritical Boiler & Associated Equipment
45. Applicable Requirements for Unit 3
46. Emissions Comparison in lb/MW-hr
47. December 2005 EPA Letter
48. Letter from RMB Consulting & Research re Results of Mercury Emission Testing, May 27, 2003
49. Published notices of certification hearing by Seminole and FDEP
50. Resumes of expert witnesses
51. Any depositions
52. Any documents needed for rebuttal or impeachment
53. Any document listed by any other party

Florida Department of Environmental Protection

FDEP reserves the right to offer the following exhibits at the certification hearing in the above-styled case:

1. FDEP Staff Analysis Report, dated November 9, 2006.
2. Resumes of all expert witnesses
3. Any documents listed as exhibits by other parties to this proceeding
4. Any documents necessary for purposes of impeachment or rebuttal

Putnam County

Putnam County does not intend to call any witnesses or present any exhibits at the certification hearing.

St. Johns River Water Management District

1. SJRWMD Agency Power Plant Siting Report, submitted Oct. 11, 2006
2. Resume of Todd Eller
3. Resume of Marc Minno
4. Official Recognition of Chapter 373, Florida Statutes
5. Official Recognition of Rule 40C-2, F.A.C and of Applicant's Handbook for 40C-2, F.A.C.

Other Agencies

Other agencies signing this Prehearing Stipulation do not intend to participate in the certification hearing and will not offer any exhibits or evidence at the hearing.

Sierra Club

1. Samples of PM taken from Hoadley sailboat
2. Documents listed by other parties
3. Documents for rebuttal or impeachment
4. Copy of "An Inconvenient Truth"

WITNESSES

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Richard Zwolak, AICP
Golder Associates
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Tampa, FL 33609

Ken Kosky
Golder Associates

Subject of Testimony

Description of Seminole and
Unit 3 Project

Land Use Planning,
Socioeconomic Impact Analysis
& Traffic Impact Analysis

Project environmental impacts

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Project Development

Power Plant Environmental
Compliance

Terrestrial and Wetlands Ecology

Power Plant Engineering

Civil Engineering, Surface Water
Hydrology, Surface Water Impacts
Analysis, and Power Plant
Systems Operation

Air Quality Regulatory
Requirements

Toxicological Research and
Waste Management

Air Emissions Measurement
and Monitoring, and the
Achievability of Emission Limits

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Any witnesses necessary for rebuttal, impeachment or authentication.

Florida Department of Environmental Protection

FDEP intends to call the following witness at the certification hearing.

Hamilton S. Oven, P.E.
Siting Coordinating Office
Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399

In addition, FDEP reserves the right to call rebuttal witnesses.

St. Johns River Water Management District

Todd Eller
Marc Minno

Putnam County

Putnam County does not intend to call any witnesses at the certification hearing.

Other Agencies

The other agencies signing this Prehearing Stipulation do not intend to participate in the hearing and will not call any witnesses.

Sierra Club

Mr. Hoadley
Richard Furman

STATEMENT OF ISSUES OF LAW ON WHICH THERE IS AGREEMENT

1. This proceeding is governed by the Florida Electric Power Plant Siting Act, Section 403.501, et seq., F.S., and Chapter 62-17, F.A.C.
2. The certification hearing is being held pursuant to Section 403.508(1)-(2), F.S.
3. The order of presentation of testimony and evidence at the certification hearing shall be the Applicant, followed by any other party or Intervener, if any.
4. Witnesses shall not be sequestered.
5. The public shall be allowed to provide comments on the issues raised during the certification hearing beginning at 6PM on Tuesday, January 9, 2007.
6. Legible copies of any exhibit are acceptable in lieu of producing the original document or exhibit.
7. This Stipulation may be executed in multiple counterparts.

ISSUES OF FACT AND/OR LAW REMAINING TO BE LITIGATED

The Sierra Club asserts that the following issues remain to be litigated in this proceeding; however, the Florida Department of Environmental Protection disputes that issues 1 through 8 below are relevant or appropriate for this site certification proceeding.

1. Whether Seminole conducted an adequate BACT analysis for CO, VOC, PM, PM₁₀ and mercury.

2. Whether the emission reductions for mercury is accurately quantified and guaranteed.
3. Whether there should be a PSD review for mercury.
4. Whether Seminole's baseline actual emissions data is correctly reported and stated.
5. Whether the proposed testing requirements are adequate to ensure enforceability.
6. Whether the proposed project complies with the law.
7. Whether the proposed permit can exempt emissions from start-up, shutdown or malfunction from BACT limits.
8. Whether Seminole adequately considered reasonable alternatives to its proposed Unit 3.
9. Ultimately, whether Seminole Electric Cooperative's proposed Unit 3 Project is entitled to certification by the Siting Board pursuant to the criteria set forth in section 403.502, Florida Statutes.

APPLICATION OF RULES OF EVIDENCE

The parties to this Stipulation do not disagree regarding the application of the Florida Rules of Evidence in the certification hearing.

PENDING MOTIONS OR OTHER MATTERS

Forthcoming FDEP Motion in Limine on PSD Issues

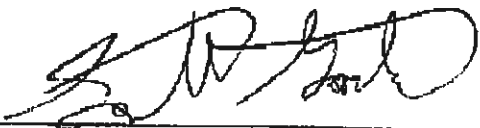
ESTIMATED LENGTH OF HEARING

The parties estimate that the certification hearing can be completed in four days.


Respectfully submitted this 4th day of January, 2007.

DEPARTMENT OF ENVIRONMENTAL
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Respectfully submitted this _____ day of January, 2007.

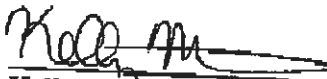
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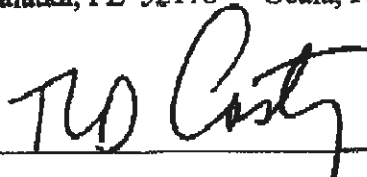
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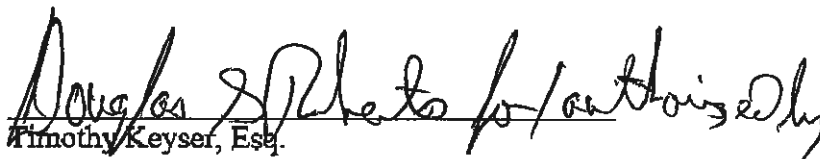
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CERTIFICATE OF SERVICE

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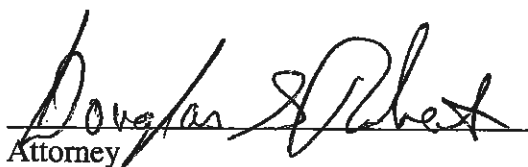
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