

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: FLORIDA MUNICIPAL POWER AUTHORITY
and KISSIMMEE UTILITY AUTHORITY
CANE ISLAND POWER PARK UNIT 4

DOAH Case No. 08-1629-EPP
DEP OGC Case No. 08-0563
PPSA No. 98-38A2

**DEPARTMENT OF ENVIRONMENTAL PROTECTION'S
DETERMINATION OF INCOMPLETENESS**

Pursuant to section 403.5066, Florida Statutes (F.S.), the Florida Department of Environmental Protection (Department) hereby finds the application incomplete. A description of all completeness issues is attached and incorporated by reference herein. Pursuant to section 403.5066, F.S., as a result of the Department's declaration that the application is incomplete, the Applicant, within 15 days after the filing of this statement by the Department, is required to file with the Division of Administrative Hearings, the Department, and all parties:

- (a) A withdrawal of the application; or,
- (b) A statement agreeing to supply the additional information necessary to make the application complete. The additional information shall be provided within 30 days after the issuance of the Department's statement on completeness of the application. The time schedules under this act shall not be tolled if the Applicant makes the application complete within 30 days after the issuance of the Department's statement on completeness of the application. A subsequent finding by the Department that the application remains incomplete, based upon the additional information submitted by the Applicant or upon the failure of the Applicant to timely submit the additional information, tolls the time schedules under this act until the application is determined complete;
- (c) A statement contesting the Department's determination of incompleteness; or
- (d) A statement agreeing with the Department and requesting additional time beyond 30 days to provide the information necessary to make the application complete. If the Applicant exercises this option, the time schedules under this act are tolled until the application is determined complete.

Submitted this 8th day of May, 2008.

/s/ *Toni L. Sturtevant*

Toni L. Sturtevant, Assistant General Counsel
Florida Bar I.D. No. 0661821
STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION
3900 Commonwealth Boulevard, M.S. 35
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(850) 245-2257 / FAX 245 – 2302

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by **electronic mail ONLY**, this 8th day of May, 2008, to:

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/s/ *Toni L. Stutterant*



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

May 8, 2008

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

Pursuant to § 403.5066, Florida Statutes, the Department of Environmental Protection after consulting with the affected agencies has determined that the application for the site certification (SCA) of FMPA/KUA's Cane Island Unit 4 is not complete enough to support a recommendation concerning certification. The following Item A represents the DEP- Central District's requests for additional or clarifying information; Item B the South Florida Water Management District; Item C represents the East Central Florida Regional Planning Council; and item D represents the Department of Health; and item E represents the Siting Office request for additional information.

Requests for completeness items related to federal permit applications are generally processed directly by the federally delegated or approved program. However, the Siting Office should be copied on all correspondence related to federal permit processing.

A. DEP CENTRAL DISTRICT OFFICE

Members of the Central District Office staff have reviewed the Cane Island Unit 4 SCA and have the following questions/comments:

Water Resource Management -Drinking Water

- The Site Certification Application states that "The existing drinking water system will require an extension to the Miscellaneous Services Building & Power Distribution Center associated with Unit 4 to supply eye wash stations." Included in the Drinking Water Section of the submittal is a "partially completed Notice of Intent to Use the General Permit for Construction of Water Main Extensions for PWS's." The Site Certification Application states that a complete application will be submitted post-certification.
- Comment: Although the new eyewash stations will probably have a minimal demand on the drinking water system, the last sanitary survey noted that the rated maximum day design capacity of the water system was exceeded once in 2006. In light of this, we recommend that a "long form" water main extension application be submitted post-certification, rather than the General Permit application.

Water Resource Management -Watershed Management

Absent an adopted TMDL, we have no comment other than to remind KUA of the need to provide appropriate stormwater treatment. Note: Stormwater treatment will be addressed by the South Florida Water Management District.

Water Resource Management -Industrial Wastewater

(Note: Comments are combined with DEP-Tallahassee Industrial Wastewater Section)

The following preliminary review comments are provided after the review the submittal. Additional comments may be provided when detail design information is received from the applicant.

1. Section 10.0 - Permit Application

The facility will have an emergency or intermittent surface water discharge of 0.55 MGD to waters of the State.

Forms 1 and 2CS are a part of the application package. Pursuant to Rule 62-4.050(4)(c)1, Florida Administrative Code (F.A.C.), these forms must be submitted separately with a NPDES industrial wastewater permit application fee of \$7500. Please submit two additional copies of Forms 1 and 2CS with the application fee to the following address:

Department of Environmental Protection
Industrial Wastewater Section
2600 Blair Stone Road, MS 3545
Tallahassee, Florida 32399-2400

Note: Forms 1 and 2CG will be processed further once the application fee is received by the Tallahassee office.

2. A review of Drawing WMB-3 - the single line diagram:

Industrial wastewater is combined with stormwater for a combined flow of 1.039 MGD. When an industrial wastestream is combined with stormwater the entire volume is then defined as industrial wastewater for permitting purposes. This will place the facility in a Category IW7A (Rule 62-4.052 FAC.) with a total fee of \$10,000 (both processing and design review fees as per the rule) for a 5 year permit. Renewals would be half that amount.

The proposal for the discharge will be reviewed in more detail when the associated forms and processing fees are received. NPDES permitting cannot be a part of the power plant siting approval.

It is strongly suggested the facility consider the segregation of the industrial wastewater treatment and disposal system from the stormwater runoff. The IW Program has not evaluated the stormwater calculations in Appendix G related to a combined discharge, if any.

The flow diagram makes it appear that there will be a single combined wastestream directed to the pond system and the over flow structure. If this is not correct then the Department requests that the diagram be revised to show each wastestream treatment train and disposal pond separately.

3. With reference to sketch WMB-3:

The sketch shows that 17,000 gpd is used for HRSG quench. Is this portion completely lost in the quenching or is a portion discharged to ground or surface waters of the State?

“Non-recoverable losses” are assumed as evaporation to atmosphere. Please expand the explanation and confirm the evaporation of this wastestream.

Please note that surface water discharges (NPDES) aspects of industrial wastewater may require:

- a. Biological Toxicity testing data.
 - b. Water Quality Based effluent limits evaluation.
 - c. Antidegradation Evaluation
 - d. Bioassessment (i.e. Shannon-Weaver index determination)
 - e. TMDL Evaluation
 - f. Federal EPA review and concurrence and review.
4. The facility must submit a Notice of Intent (NOI) for construction dewatering in accordance with Chapter 62-621 FAC. This is a separate industrial wastewater permitting requirement. This application may be submitted at least 30 days before the construction dewatering activity commences.
5. Part 10.21 on Form 2CG, It is assumed that the new percolation pond is dedicated to discharges from unit 4.

The new percolation pond will receive 22,000 gpd of discharge from the plant & oil/ water separator. The Department will require effluent monitoring for oil/ grease, TRPH, TOC, pH, Mercury, Cadmium, Copper, Lead, Zinc, Hexavalent Chromium, Benzene and Naphthalene (Parameters from Chapter 62-621), the metals need to be the Total Recoverable version of the test.

It is noted that there will be a 12 inch freeboard provided in the pond. It is suggested that this 12 inch buffer may be appropriate for capacity above the design storm event, but strongly recommend that the normal working freeboard should be 36 inches.

Please provide a plan and cross section of the new pond drawn to scale and details of the outfall structure. Indicate how the new and the existing pond/s are connected and the locations of each on an overall site plan.

*Waste Management – Hazardous Waste:

Page 3-23: 3.6.4 Cycle Makeup Water Treatment

As discussed in Subsection 3.5.4, the makeup water to the steam cycle will be generated by additional operation of the existing demineralization system which consists of ion exchange resin beds. The demineralization system uses sulfuric acid for cation resin regeneration and

sodium hydroxide for anion resin regeneration. The sulfuric acid and sodium hydroxide are stored in tanks located in curbed concrete containment areas in or near the treatment areas. Any spillage of chemicals in the curbed areas is routed to the neutralization basin for treatment. The use of these chemicals is dependent on demineralized water requirements.

If the spilled material exhibits any characteristic identified in Title 40 Code of Federal Regulations (40 CFR) Part 261 Subpart C, the material is regulated as a hazardous waste. Discharge of a hazardous waste to an on-site surface impoundment may be regulated by the Department's Hazardous Waste Program.

In order to properly review this information the department requires the following: Please describe all chemical spills in the past 3 years, including the type of waste, volume of waste and the pH of the waste prior to discharge to the surface impoundment. Also, please provide any records documenting the impact of the spill discharge on the pH of the surface impoundment.

Wastewater from the cation resin regeneration includes regenerant water containing unreacted sulfuric acid and dissolved sulfate salts of cations removed from the resin during regeneration. Wastewater from anion resin regeneration includes regenerant water containing unreacted sodium hydroxide and dissolved sodium salts of anions removed from the resin during regeneration.

If the regeneration discharge exhibits any characteristic identified in Title 40 Code of Federal Regulations (40 CFR) Part 261 Subpart C, the material is regulated as a hazardous waste. Discharge of a hazardous waste to an on-site surface impoundment may be regulated by the Department's Hazardous Waste Program.

In order to properly review this information the department requires the following: Please describe the normal volume of regeneration waste from each specific process, including the volume of waste and the pH of the waste as generated (prior to any treatment). Also, please provide any records documenting the pH of the surface impoundment during the past 3 years.

Page 3-24: 3.7 Solid and Hazardous Waste

Waste oil is the major potentially hazardous substance generated by plant operation. Two processes generate waste oil: combustion turbine cleaning and oil/water separator operation. The internal components of the combustion turbines are periodically cleaned using a solvent solution. This wash water may contain oily residues and metal particles. The wash water is collected in an underground combustion turbine drain tank and hauled offsite as needed by a licensed contractor for ultimate disposal.

In order to properly review this information the department requires the following: Please identify the "solvent solution" used and the volume of waste generated by this process as this may reflect on the site's generator status. Please be aware, the site has notified the department as a small quantity generator of hazardous waste and does not

currently have a RCRA permit allowing for the treatment, storage or disposal of hazardous waste.

B. SOUTH FLORIDA WATER MANAGEMENT DISTRICT

After review of the Site Certification Application for the above subject project, the District has identified the following completeness issues:

WATER SUPPLY

1. Please provide a letter from the Tohopekaliga Water Authority documenting that they have a sufficient uncommitted excess volume of reclaimed water to meet the demands of Unit 4.
2. In Section 10.5.1 of Volume 2, reference is made to the SFWMD conducting the Environmental Resource Permit (ERP) review rather than the FDEP. Pursuant to the Operating Agreement between the FDEP and the SFWMD, a Special Case Agreement will be necessary to allow the SFWMD to process the ERP for this site. Based on previous discussions with FDEP staff, they have no objections to this proposal. The Special Case Agreement will require approval by the SFWMD's Governing Board. The applicant will need to continue to coordinate with Ed Yaun in the SFWMD's Orlando Service Center regarding approval of this Agreement.
3. Pages 10-13 through 10-22 are missing from Volume 2, including the details of the proposed dewatering activities. Please provide.

SURFACE WATER MANAGEMENT

4. Based on the design information for Unit 3, the design storm for discharge was the 10-year 72-hour storm, not the 25-year 72-hour storm. Please revise.
5. Please provide design drawings signed and sealed by a Florida registered professional engineer. In addition, please label the storm water management and percolation ponds on the drawings.
6. Although the NGVD 1929 datum is referenced on sheet 3.8-2, for clarity purposes, please provide a note on drawings 3.8-3, 4 and 5 specifying which datum (NGVD 29 or NAVD 88) is referenced and include the conversion between the two.
7. Please provide a signed version of the Environmental Resource Permit (ERP) application form.
8. Please provide a detailed land use breakdown table for the existing and proposed conditions of the 24.2 acre project area.

9. Please describe the proposed changes between the existing and proposed discharge structure.

C. EAST CENTRAL FLORIDA REGIONAL PLANNING COUNCIL

The East Central Florida Regional Planning Council requests the following additional information:

Due to the location of Cane Island in Osceola County, staff is concerned that no information on sand skinks was found in the application. The sand skink is an endemic species to sandy ridges of Central Florida and is listed as a state threatened species. Therefore, staff requests additional information regarding sand skink surveying. This information is needed to determine if mitigation is required.

D. DEPARTMENT OF HEALTH

The Department of Health notes the following information:

We note that they propose to add the additional flow from the new unit to an existing onsite sewage treatment and disposal system. Such a proposal requires review and approval of the existing system by the Osceola County Health Department.

E. SITING OFFICE

The Siting Coordination Office requests the following additional information:

1. Regarding Table 2.1-1, please indicate whether adjacent property owners have been notified of the proposed Unit 4 addition. Furthermore, please submit information indicative of the outreach efforts which were extended to potentially affected persons. The applicant should be advised that House Bill 7135 contains the following new requirements built into 403.5115(6), F.S. which this Office understands are important issues to the Siting Board:

(a) A good faith effort shall be made by the applicant to provide direct written notice of the filing of an application for certification by United States mail or hand delivery no later than 45 days after filing of the application to all local landowners whose property, as noted in the most recent local government tax records, and residences are located within the following distances of the proposed project:

- 1. Three miles of the proposed main site boundaries of the proposed electrical power plant.*
- 2. One-quarter mile for a transmission line corridor that only includes a transmission line as defined by s. 403.522(22).*
- 3. One-quarter mile for all other linear associated facilities extending away from the main site boundary except for a transmission line corridor that includes a transmission line that operates below those defined by s. 403.522(22).*

(b) No later than 60 days from the filing of an application for certification, the applicant shall file a list with the department's Siting Coordination Office of landowners and residences that were notified.

2. Based on FMPA's latest 10-year filings with the Public Service Commission (or better data if available), please estimate expected CO₂ emissions from FMPA plants in Florida in 2017 and compare them with emissions in 2007 and 2000.
3. To what extent has FMPA evaluated the feasibility of processes to capture CO₂ from any of its plants in Florida? Provide any reviews conducted or plans to conduct assessments regarding the availability of deep confined geological strata within a reasonable distance (e.g. <200 kilometers) of the proposed plant site for possible future CO₂ storage.

If you have any questions concerning these matters, please contact me at (850) 245-8005.

Sincerely,

/s/ *Michael P. Halpin*

Michael P. Halpin, P.E.
Administrator, Siting
Coordination Office