



Florida Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

March 11, 2010

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Susan Schumann
FMPA – Environmental Licensing and Permitting
8553 Commodity Circle
Orlando, FL
32819-9002

RE: KUA Cane Island Power Park
Modification to Conditions of Certification
DEP Case Number PA 98-38E
OGC Case Number 10-0733

FINAL ORDER MODIFYING CONDITIONS OF CERTIFICATION

Dear Ms. Schumann:

On March 18, 2009, the Department received notice from the South Florida Water Management District (SFWMD) that SFWMD staff had reviewed the revised Surface Water Quality Monitoring Plan and the discharges associated with the Cane Island Power Park. The SFWMD staff determined that the Environmental Protection Agency's NPDES monitoring program for this system provided adequate monitoring for the Cane Island Power Park. Consequently, the surface water management monitoring requirements originally set forth in Condition XXIII.C.3.c would not be required and may be deleted.

The Department has reviewed the modification request. On or before January 25, 2010, all parties to the certification proceeding were provided with notice by certified mail of the Department's intent to modify the Conditions of Certification for this facility, along with a copy of the proposed Order Modifying Conditions of Certification.

On February 5, 2010, notice of the Department's intent to modify the Conditions of Certification for this facility was published on the Florida Administrative Weekly (FAW). Pursuant to Section 403.516, Florida Statutes ("F.S."), and Rule 62-17.211, Florida Administrative Code ("F.A.C."), all parties to the certification proceeding have 45 days from the issuance of notice by mail to such party's last address of record in which to file a written objection to the modification; that any person who is not already a party to the certification proceeding and whose substantial interests will be affected by the requested modification has 30 days from the date of publication of the public notice in the Florida Administrative Weekly to object in writing; that failure to act within the time frame constitutes a waiver of the right to become a party; and that the

Department will issue an Order Modifying the Conditions of Certification for this facility if no written objections are received by the Department.

The Department published notice of its intent to issue Title V Air Operation Permit No. 0970043-017-AV on August 12, 2009. On November 24, 2009, the Department issued Title V Air Operation Permit No. 0970043-017-AV. This federally issued permit has been incorporated into the Conditions of Certification through this modification.

Pursuant to 403.516(1)(b), F.S., the Department may modify specific Conditions of a site Certification which are inconsistent with the terms of any federally delegated or approved permit. Such modification(s) may be made without further notice if the matter has been previously noticed under the requirements for any federally delegated or approved permit program.

No objections to the modification have been received by the Department. The Conditions of Certification for the Cane Island Power Park are hereby modified as follows:

III. GENERAL CONDITIONS

A. Facilities Operation

1. – 2. *No Change*

3. The KUA shall comply with the terms and conditions contained in Permit Nos. PSD-FL-254/PA98-38 and PSD-FL-400 as well as (attached as Appendices II and III) ~~and~~ any revisions, modifications or reissuances thereof.

XIII. AIR

A. General and Administrative Requirements

1. *No Change*

2. Title V Air Operation Permit Number 0970043-0137-AV is incorporated by reference herein as part of this Certification. Units 1, 2 & 3 shall operate in conformance with DEP Permit No. 0970043-0137-AV attached as Appendix 1. The provisions of Title V Air Operation Permit Number 0970043-0137-AV shall be conditions of this certification. The licensee shall comply with the substantive provisions and limitations set forth in Title V Air Operation Permit Number 0970043-0137-AV as part of these Conditions of Certification, and as those provisions may be modified in the future by the Department. Such provisions shall be fully enforceable as conditions of this certification. Any violation of such provisions shall be a violation of these Conditions of Certification.

XVII. NPDES AND INDUSTRIAL WASTES

A. Surface Water Discharge

This Condition of Certification is issued under the provisions of Chapter 403, Florida Statutes, and applicable rules of the Florida Administrative Code and constitutes authorization to discharge to waters of the state under the National Pollutant

Discharge Elimination System. The KUA is hereby authorized to operate the facilities shown in the Cane Island Unit 3 Site Certification Application and other documents on file with the Department and made a part hereof and as specifically described in Permit No. FLA010961 (attached as Appendix IV). The Cane Island Power Park shall operate as follows:

No further changes

XXIII. SOUTH FLORIDA WATER MANAGEMENT DISTRICT

A. – B. No Changes

C. Surface Water Management Conditions

1. – 2. *No Changes*

3. a. – b. *No Changes*

~~c. Surface Water Quality Monitoring Program~~

~~(1) Within three months of issuance of this Certification, the Permittee shall submit for review and approval by the SFWMD, a surface water quality monitoring program which monitors all off-site discharges from the surface water management system into the on-site wetlands.~~

~~(2) While the program may incorporate additional monitoring requirements and parameters required by other agencies, it shall include the following parameters and time frames at a minimum:~~

SCHEDULE	PARAMETERS
A. General (Every Other Month)	Total Organic Carbon, Dissolved Oxygen, pH, Turbidity, Specific Conductance, Chemical Oxygen Demand, Total Suspended Solids, and Alkalinity.
B. Organics (Semi-annual)	Oil and Grease, Detergents, EPA Methods 601 and 602.
C. Metals (Semi-annual)	Aluminum, Antimony, Arsenic, Beryllium, Cadmium, Copper, Cyanide, Iron, Lead, Mercury, Nickel, Selenium, Silver, and Zinc.

~~(3) Water quality samples shall be taken at the above noted locations in accordance with the above schedule during periods of discharge. The Permittee shall provide such data to the SFWMD as volumes of water discharged, including total volume discharged during the days of sampling, and total discharges from the property or into surface waters of the state. A laboratory certified by the State of Florida shall be responsible for all water quality analysis under (1)B and (1)C above. Reports shall be submitted to the SFWMD on a semi-annual basis. Initial sampling results shall be reported to the SFWMD no later than six months following the issuance of this Certification.~~

~~(4) The SFWMD will evaluate monitoring requirements to determine whether the discharge degrades receiving waters and conforms to State water quality standards as defined in Chapter 62-17.302, F.A.C. If water quality problems develop, the SFWMD reserves the right to require more frequent sampling~~

~~and more thorough analyses in order to provide assurances that the discharges will not cause additional off-site water quality impacts.~~

~~Reference: Section 373.413(1), 373.413(2), and 373.416(1), F.S.; Rules 40E-4.091(1)(a), 40E-4.301, and 40E-4.381, F.A.C.~~

~~cd.~~ Hazardous Materials Management

D. No Changes

XXIV – XXV No Changes

A complete set of the Conditions of Certification (including attachments) can be viewed and downloaded from the following website: <http://www.dep.state.fl.us/siting/certification.htm>. Copies of the Conditions of Certification and/or attachments may also be obtained by contacting Michael P. Halpin, P.E., Administrator, Siting Coordination Office, Department of Environmental Protection, 3900 Commonwealth Blvd, M.S. 48, Tallahassee, Florida 32399, (850) 245-2002.

Any party to the this Order has a right to seek judicial review of it pursuant to Section 120.68, F.S., by filing a Notice of Appeal, pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department of Environmental Protection in the Office of General Counsel, 3900 Commonwealth Boulevard, M.S. 35, Tallahassee, Florida 32399-3000, and by filing a copy of the Notice of Appeal, accompanied by the applicable filing fees, with the appropriate District Court of Appeal. The Notice of Appeal must be filed within thirty days from the date this Order is filed with the Clerk of the Department of Environmental Protection.

The Department also notes that in the near future it will be initiating a modification pursuant to Section 403.516(1)(c), F.S., to update Cane Island Power Park's existing Conditions of Certification to incorporate a uniform set of General Conditions consistent with recent Site Certifications. If you have any questions regarding this upcoming modification, please contact Ann Seiler at (850) 245-2143.

Sincerely,



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

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to §120.52
Florida Statutes, with the designated
Department Clerk, receipt of which is
hereby acknowledged.

Essie Turner
Clerk

3-11-10
Date

CC by email (return receipt requested):

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