



Florida Department of Environmental Protection

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

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

March 6, 2009

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

William Reichel, FPL Martin Plant
Plant General Manager
Post Office Box 176
Indiantown, FL 34956

RE: Florida Power & Light's Martin Power Plant
DEP Case Number PA89-27
(Postcertification Amendment dated January 14, 2009)
(revised drawings submitted February 24, 2009)

Mr. Reichel:

On January 16, 2009 the Florida Department of Environmental Protection's Siting Coordination Office (Department) received a request for a post certification amendment to the Site Certification Application for Florida Power & Light's (FPL) the Martin Solar Energy Center to construct a borrow pit within the certified site. Revised drawings were submitted to the Department on February 24, 2009 to show a heavy haul road not clearly identified in the earlier submission.

Pursuant to Section 62-17.205(c), F.A.C., the Department has determined that this request is an amendment to the application that will not require modification to the Conditions of Certification (COC) for the facility.

Prior to construction of the borrow pit and heavy haul road, FPL shall;

1. Revise the details of the construction drawings to accommodate the grade break of the side slope required by the Martin county code (Code requires it to occur at an elevation of 3' below CWE). *Land Development Regulations, Article , Division 8, Sec 4.348(B)(2)*, Martin County Ordinance
2. Provide documentation that demonstrates compliance with the following;
 - a. Martin County Code allows the depth of bottom excavation (20' below CWE) of the pit/lake only if the applicant supplies soils and geological assessments, prepared by a State of Florida registered engineer qualified to provide such information, that address potential impacts to confining layers and water quality of subsurface aquifers and surrounding wells. Otherwise, the maximum depth of excavation shall be 15' below CWE. *Land Development Regulations, Article , Division 8, Sec 4.348(B)(1)*, Martin County Ordinance

Copies of the revised drawings and documentation shall be submitted to the DEP Siting Office and Martin County Growth Management Department.

The Department's Order shall become final unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57, Florida Statutes ("F.S."), within 21 days of receipt of this Order. The procedures for petitioning for a hearing are set forth below.

Persons affected by this Order have the following options:

If you choose to accept the above decision by the Department concerning the postcertification amendment you do not have to do anything. This Order is final and effective as of the date on the top of the first page of this Order.

If you disagree with the decision, you may do one of the following:

1. File a petition for administrative hearing with the Department's Office of General Counsel within 21 days of receipt of this Order; or
2. File a request for an extension of time to file a petition for hearing with the Department's Office of General Counsel within 21 days of receipt of this Order. Such a request should be made if you wish to meet with the Department in an attempt to informally resolve any disputes without first filing a petition for hearing.

Please be advised that mediation of this decision pursuant to section 120.573, Florida Statutes ("F.S."), is not available.

How to Request an Extension of Time to File a Petition for Hearing

For good cause shown, pursuant to rule 62-110.106(4), Florida Administrative Code ("F.A.C."), the Department may grant a request for an extension of time to file a petition for hearing. Such a request must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000, within 21 days of receipt of this Order. Petitioner, if different from the addressee, shall mail a copy of the request to the addressee at the time of filing. Timely filing a request for an extension of time tolls the time period within which a petition for administrative hearing must be made.

How to File a Petition for Administrative Hearing

A person whose substantial interests are affected by this Order may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida, 32399-3000, within 21 days of receipt of this Order. Petitioner, if different from the addressee, shall mail a copy of the petition to the addressee at the time of filing. Failure to file a petition within this time period shall waive the right of anyone who may request an administrative hearing under sections 120.569 and 120.57, F.S.

Pursuant to subsections 120.54(5)(b)4 and 120.569(2), F.S. and rule 28-106.201, F.A.C., a petition for administrative hearing shall contain the following information:

- a) The name, address, and telephone number of each petitioner, the name, address, and telephone number of the petitioner's representative, if any, the site owner's name and address, if different from the petitioner, the DEP facility number, and the name and address of the facility;
- b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- c) An explanation of how each petitioner's substantial interests are or will be affected by the Department's action or proposed action;

- d) A statement of the material facts disputed by the petitioner, or a statement that there are no disputed facts;
- e) A statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the Department's action or proposed action;
- f) A statement of the specific rules or statutes the petitioner contends requires reversal or modification of the Department's action or proposed action; and
- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department's action or proposed action.

This Order is final and effective as of the date on the top of the first page of this Order. Timely filing a petition for administrative hearing postpones the date this Order takes effect until the Department issues either a final order pursuant to an administrative hearing or an Order Responding to Supplemental Information provided to the Department pursuant to meetings with the Department.

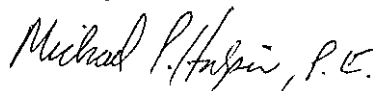
Judicial Review

Any party to this Order has the right to seek judicial review of it under section 120.68, F.S., by filing a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department in the Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, 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 after this order is filed with the clerk of the Department (see below).

Questions

Any questions regarding the Department's review of your postcertification amendment should be directed to Michael P. Halpin, P.E. at (850) 245-2002. Questions regarding legal issues should be referred to the Department's Office of General Counsel at (850) 245-2242. Contact with any of the above does not constitute a petition for administrative hearing or request for an extension of time to file a petition for administrative hearing.

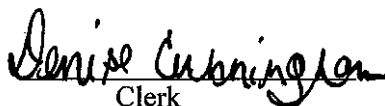
Sincerely,



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.

 3-6-2009
Clerk Date

Service List CC by email (return receipt requested):

Jennifer Brubaker, Esquire
Florida Public Service Commission
Gerald Gunter Building
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Tallahassee, FL 32399-0850
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Ruth Holmes, Esquire
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Peter C. Cunningham, Esquire
Douglas S. Roberts, Esquire
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Martin County Attorney's Office
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Toni Sturtevant, Esquire
Department of Environmental Protection
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Kimberly Menchion, Esquire
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Matt Davis, Esquire
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Roger Saberson, Esquire
Treasure Coast Regional Planning Council
70 Southeast Fourth Avenue
Delray Beach, FL 33483-4514
ssroger@bellsouth.net

Also CC by email:

Stacy Foster, FPL Environmental Services Stacy.Foster@fpl.com
Harry W. King, Principal Planner, Growth Management Department

hking@martin.fl.us