



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

October 2, 2007

- CERTIFIED MAIL - RETURN RECEIPT REQUESTED -

Ms. Farzie Shelton
City of Lakeland
Department of Electric Utilities
501 East Lemon Street
Lakeland, FL 33801-5050

RE: City of Lakeland
C.D. McIntosh, Jr., Power Plant
Modification to Conditions of Certification
DEP Case Number PA74-06L
OGC Case Number 07-0303

ORDER MODIFYING CONDITIONS OF CERTIFICATION

Dear Ms. Shelton:

The Siting Board issued the Site Certifications for the McIntosh Power Plant Unit 3 on December 7, 1978. This certification authorized the construction and operation of a 334 Mw coal/gas/refuse fired power plant. Unit 5 was certified on June 1, 2000 for the operation and construction of a 370 MW gas fired power plant. The McIntosh Power Plant Facility is located near the City of Lakeland, Florida. The Department of Environmental Protection has subsequently modified the Conditions of Certification on ten different occasions by final orders.

On or before September 19, 2007, all parties to the certification proceeding were provided with notice by certified mail or electronically 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. Additionally, on or before August 24, 2007, notice of the Department's intent to modify the Conditions of Certification for this facility was published in the Florida Administrative Weekly. The Department of Transportation (DOT) has made one non-substantive change to Condition II.A.17.e as the DOT's language on airspace was recently revised. Those notices specified that pursuant to Section 403.516, F.S., and Rule 62-17.211, F.A.C., all parties to the certification proceeding have 45 days from the issuance of the notice by mail to such party's last address of record in which file a written objection to the modification; that failure of any of the parties to file a response will constitute a waiver of objection to the modification; and 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.

No objections to the modification have been received by the Department. The Conditions of Certification for the McIntosh Unit No. 3 facility are hereby modified as follows:

I. GENERAL

A. – B. No Change

C. Noncompliance Notification

If, for any reason, the licensee does not comply with or will be unable to comply with any limitation specified in this certification, the licensee shall notify the Southwest District Manager of the Department by telephone at (813) 744-6100 632-7600 during the working day during which said noncompliance occurs and shall confirm this situation in writing within seventy-two (72) working-day hours of first becoming aware of such conditions, supplying the following information:

D. – L. No Change

II. SPECIFIC

A. Unit No. 3

1. Air

The construction and operation of the Unit No. 3 at the McIntosh Plant shall be in accordance with all applicable provisions of the Chapters 62-210 - 62-297, Florida Administrative Code, PSD-FL-008 (attached as Appendix C), Permit 1050004-018-AC (attached as Appendix A), Permit 105004-019-AC (attached as Appendix D), and Title V Air Operation Permit No 1050004-016-AV (attached as Appendix E), and any subsequent modifications and/or amendments. ~~The licensee shall comply with the following conditions of certification:~~

~~a. Emission Limitations~~

~~1) Stack emissions shall not exceed those specified in Chapter 62-296.405, and 62.296.800(2)(a)1., FAC.~~

~~2) Sulfur dioxide emitted to the atmosphere from the boiler shall not exceed 1.2 pounds per million BTU heat input in accordance with 40 CFR 60 Subpart D, Standards of Performance for Fossil Fuel Fired Steam Generators for which Construction Started After August 17, 1971.~~

~~i) A flue gas desulfurization system will be installed to treat exhaust gases and will operate such that whenever coal or blends of coal and petroleum coke or refuse are burned, sulfur dioxide in gases discharged to the atmosphere from the boiler shall not exceed 10 percent of the potential combustion concentration (90 percent reduction), or 35 percent of the potential combustion concentration (65 percent reduction), when emissions are less than 0.75 pounds per million BTU heat input. Compliance with the percent reduction requirement shall be determined on a 30-day rolling average. This compliance information shall be retained for a period of three years and made available by the City upon request by the Department. Whenever blends of petroleum coke are co-fired with other fuels, sulfur dioxide emissions shall not exceed 0.718 pounds per million BTU heat input based on a 30-day rolling average and shall comply with the reduction requirements given above.~~

~~ii) Continuous burning of natural gas, low sulfur fuel oil (less than or equal to 0.5 percent sulfur by weight), or combinations of these two fuels with or without the use of SO₂ scrubber will be allowed.~~

~~iii) The burning of high sulfur oil (greater than 0.5 percent by weight) or a combination of high sulfur oil and municipal refuse as an emergency fuel without the use of the SO₂ scrubber will be allowed only when the flue gas desulfurization system malfunctions to the extent that the burning of coal would cause emission limitations to be exceeded. Sulfur dioxide emitted to the atmosphere from the boiler shall not exceed 0.8 pounds per million BTU under this condition.~~

~~iv) During malfunctions of equipment which cause an interruption of the coal feed to the boiler, the burning of high sulfur oil (greater than 0.5 percent by weight) or a combination of high sulfur oil and municipal refuse will be allowed only if all flue gases are fully scrubbed by the SO₂ scrubber. Sulfur dioxide emitted to the atmosphere from the boiler shall not exceed 0.8 pound per million Btu under this condition.~~

~~3) The height of the boiler exhaust stack for Unit 3 shall be not less than 250 feet above grade. The height of stacks for future units shall be determined after review of supplemental applications.~~

~~4) Particulate emissions from the coal handling facilities:~~

~~i) The applicant shall not cause to be discharged into the atmosphere from any coal processing or conveying equipment, coal storage~~

~~system, or coal transfer and loading system, visible emissions which exceed 20 percent opacity.~~

~~ii) The applicant must submit to the Department within five (5) working days after it becomes available, copies of technical data pertaining to the selected particulate emissions control for the coal handling facility. These data should include, but not be limited to, a copy of the formal bid from the successful bidder, guaranteed efficiency and emission rates, and major design parameters such as air/cloth ratio and flow rate. The Department may, upon review of these data, disapprove the use of such device if the Department determines the selected control device to be inadequate to meet the visible emission limit specified in 5 (a) above.~~

~~5) Particulate matter emitted into the atmosphere from the boiler shall not exceed:~~

Mode of Firing	lb/10⁶ BTU Heat Input
Coal	0.044
Coal/Petcoke	0.044
Coal/Refuse	0.050
Coal/Petcoke/Refuse	0.050
Oil	0.070
Oil/Refuse	0.075

~~6. The forced oxidation system modification and related activities shall not result in the release of objectionable odors pursuant to Rule 62-296.320(2), F.A.C.~~

~~7. The licensee shall utilize best practices in order to assure that fugitive emissions resulting from the forced oxidation conversion to the FGD system (including subsequent long term material handling operations) are minimized. In no case, shall particulate emissions from such fugitive emissions exceed 20% opacity.~~

b. Air Monitoring Program

~~1) Continuous monitors shall be installed and operated in accordance with 40 CFR 60.45 and 60.13. In addition, the ASTM certified automatic solid fossil fuel sampler shall be installed which produces a representative daily sample for analysis of sulfur, moisture, heating value and ash. The solid fossil fuel analysis data shall be used in conjunction with emission factors and the continuous monitoring data to calculate SO₂ reduction.~~

~~_____ 2) The licensee shall maintain a daily log of fuels used and copies of fuel analyses containing information on sulfur content, ash content and heating values to facilitate calculations of emissions.~~

~~_____ 3) The licensee shall provide sampling ports into the stack and shall provide access to the sampling ports, in accordance with Rule 62-297, F.A.C.~~

~~_____ 4) The ambient monitoring program may be reviewed annually beginning two years after start up of Unit No. 2 by the Department and the licensee.~~

~~_____ 5) Emission Control Systems:~~

~~_____ Prior to operation of the source, the owner or operator shall submit to the Department a standardized plan or procedure that will allow the company to monitor emission control equipment efficiency and enable the company to return malfunctioning equipment to proper operation as expeditiously as possible.~~

c. Stack Testing

~~_____ 1) Within 45 60 days after placing Unit 3 on line after modifying the Flue gas desulphurization system for forced oxidation, achieving the maximum capacity at which the facility will be operated, but no later than 180 days after initial startup, the owner or operator shall conduct stack performance tests for particulates matter and SO₂ in order to demonstrate that existing emission limits can be met. The licensee shall and promptly furnish the Department a written report of the results of such performance tests.~~

~~_____ 2) Performance tests shall be conducted and data reduced in accordance with methods and procedures in accordance with EPA or DEP approved test methods.~~

~~_____ 3) Performance tests shall be conducted under such conditions as the Department shall specify based on representative performance of the facility. The owner or operator shall make available to the Department such records as may be necessary to determine the conditions of the performance tests.~~

~~_____ 4) The owner or operator shall provide the Department with 30 days prior notice of the performance tests and afford the Department the opportunity to have an observer present.~~

~~_____ 5) Stack tests for particulates, NO_x and SO₂ shall be performed annually in accordance with conditions 2, 3 and 4 above. GEMS and~~

~~CEMS's relative accuracy tests may be used to determine compliance as long as the source and test conditions are consistent with the applicable requirements.~~

~~d. Reporting~~

~~1) Stack monitoring data shall be reported to the Department on a quarterly basis in accordance with 40 CFR, Part 60, Section 60.7(c),(d) and in accordance with 62-297.405(1)(g), FAC. Fuel usage and fuel analysis data shall be reported to the Department on an annual basis.~~

~~2) Ambient air monitoring data shall be reported to the Department quarterly by the last day of the month following the quarterly reporting period utilizing the SAROAD or other format approved by the Department in writing.~~

~~3) The licensee shall notify the DEP Southwest District at least one day prior to the commencement of construction of the FGD conversion to forced oxidation and 7 days prior to commencement of any related stack performance testing. The DEP's Southwest District shall be notified within 5 days, in writing, upon completion of the forced oxidation construction modifications.~~

~~4) A written summary shall be submitted to the Bureau of Air Regulation within 60 days of completion of the stack tests required in condition II.a.1.c. above.~~

~~e. Coal Characteristics and Contracts~~

~~Before approval can be granted by the Department for use of control devices, characteristics of the coal to be fired must be known. Therefore, before these approvals are granted, the applicant must submit to the Department copies of coal contracts which should include the expected sulfur content, ash content, and heat content of the coal to be fired. These data will be used by the Department in its evaluation of the adequacy of the control devices.~~

~~f. Coal Information~~

~~As an alternative to the submittal of contracts for purchase of coal under condition E above, the applicant may submit the following information:~~

~~1) The name of the coal supplier;~~

~~2) The sulfur content, ash content, and heat content of the coal as specified in the purchase contracts;~~

~~_____ 3) The location of the coal deposits covered by the contract (including mine name and seam);~~

~~_____ 4) The date by which the first delivery of coal will be made;~~

~~_____ 5) The duration of the contract; and~~

~~_____ 6) An opinion of counsel for the applicant that the contract(s) are legally binding enforceable.~~

~~g. Reporting~~

~~_____ 1) Beginning one month after certification the applicant shall submit to the Department a quarterly status report briefly outlining progress made on engineering design and purchase of major pieces of equipment (including control equipment). All reports and information required to be submitted under this condition shall be submitted to the Administrator, Siting Coordination Office, Department of Environmental Protection, 2600 Blair Stone Road, MS 48, Tallahassee, Florida 32399-2400.~~

~~_____ 2) Lakeland shall maintain and submit to the Department on an annual basis for a period of five years from the date the unit is initially in commercial operation, co-fired with petroleum coke, information demonstrating in accordance with 40 CFR 52.21 (b)(33) and 40 CFR 52.21 (b)(21)(v) that the operational changes did not result in emission increases of carbon monoxide, nitrogen oxides, or sulfuric acid mist.~~

~~h. Fuels~~

~~_____ The following fuels may be burned:~~

- ~~• Coal only;~~
- ~~• Low sulfur fuel oil only (0.5 percent sulfur by weight);~~
- ~~• Coal and up to 10 percent refuse (based on heat input);~~
- ~~• Low sulfur fuel oil and up to 10 percent refuse (based on heat input);~~
- ~~• Coal and up to 20 percent petroleum coke (based on weight);~~
- ~~• Coal and up to 20 percent petroleum coke (based on weight) and 10 percent refuse (based on heat input);~~
- ~~• High sulfur oil (> 0.5 percent sulfur by weight) consistent with Conditions I.A.2.b. or I.A.2.c.;~~
- ~~• Natural gas only or in combination with any of the other fuels or fuel combinations listed above.~~

2-12: No Change

13. Transmission Lines

Directly associated transmission lines shall be constructed and maintained in a manner to minimize environmental impacts in accordance with Chapter 403, F.S., and Chapter ~~27F-6, 27F-7, and 62-312, FAC~~ 373, F.S.

a. Construction

1) Filling and construction in ~~waters of the State~~ State Owned Sovereign Submerged Lands(SSSL) as well as other applicable waters of the State shall be minimized to the extent practicable. No such activities shall take place without obtaining lease or title from the Board of Trustees of the Internal Improvement Trust Fund.

2)-4) no change

5) Sufficient culverts shall be placed through fill causeways to maintain sheet flow. The number and locations of such culverts will be determined in the field by consultation with ~~DER~~ DEP field inspectors.

6)-8) no change

9) Good environmental practices ~~as described in~~ *Environmental Criteria for Electric Transmission Systems* or published by the U.S. Department of Interior and the U.S. Department of Agriculture should be followed.

10) Any archaeological sites discovered during construction of the transmission line shall be disturbed as little as possible and such discovery shall be communicated to the Department of State, Division of Historical Resources.

11) At least 60 days prior to the projected commencement of construction of any transmission line improvements in wetlands, including improvements or expansions of the Lakeland-Taft Transmission Line operated by the Orlando Utilities Commission (OUC), the applicant shall submit to DEP and the U.S. Army Corps of Engineers a Joint Environmental Resource Permit Application, DEP Form No. 62-343.900(1). A copy of the application shall also be provided to SWFWMD. Information may be submitted by discrete sections of the transmission line right of way. The applicant shall consult with DEP to identify mutually agreeable sections for purposes of wetlands submittals. The completed application for each section shall be reviewed as a post certification submittal consistent with 403.5113(1),F.S. In the construction of any additional or expanded transmission facilities including upgraded

structure pads or expanded access roads in wetlands, provision must be made to replace or otherwise mitigate any loss of historic basin storage and to avoid any net encroachment into the flood plains. OUC shall provide reasonable assurance that any improvements to be constructed in wetlands shall satisfy the criteria of Rules 40D-4.301 and 40D-4.302, F.A.C., and the applicable portions of Part B of the SWFWMD Environmental Resource Permitting Information Manual, including Sections 4.4 and 4.7.

12) Upon prior approval from DEP and in accordance with this Condition of Certification, OUC is authorized to reconductor and perform maintenance work within the certified Lakeland-Taft Transmission Line right-of-way using "no impact" construction methods as described herein. Any work requiring or resulting in impacts not authorized above or by these Conditions of Certification, including, without limitation, any permanent fill in floodplain or historic depressional surface water storage areas, must receive prior approval from DEP.

13). Transportation

i. Access Management to the State Highway System:

Any access to the State Highway System will be subject to the requirements of Rule Chapters 14-96, State Highway System Connection Permits, and 14-97, Access Management Classification System and Standards, Florida Administrative Code.

ii. Overweight or Overdimensional Loads:

Operation of overweight or overdimensional loads by the applicant on State transportation facilities during construction and operation of the utility facility will be subject to safety and permitting requirements as defined in Chapter 316, Florida Statutes, and Rule Chapter 14-26, Safety Regulations and Permit Fees for Overweight and Overdimensional Vehicles, Florida Administrative Code.

iii. Use of State of Florida Right of Way or Transportation Facilities:

Any use of State of Florida right of way and certain activities on State transportation facilities will be subject to the requirements of the Department of Transportation's Utility Accommodation Manual (Document 710-020-001), Rule Chapter 14-46, Utilities Installation or Adjustment, Florida Administrative Code, and Section 337.403, Florida Statutes.

iv. Drainage:

Any drainage onto State of Florida right of way and transportation facilities will be subject to the requirements of Rule Chapter 14-86, Drainage Connections, Florida Administrative Code, including the attainment of any permit required thereby.

v. Use of Air Space:

Any newly proposed structure or alteration of an existing structure will be subject to the requirements of Chapter 333, F.S., and Rule 14-60.009, Airspace Protection, F.A.C. Additionally, notification to the Federal Aviation Administration (FAA) is required prior to beginning construction, if the structure exceeds notification requirements of 14 CFR Part 77, Objects Affecting Navigable Airspace, Subpart B, Notice of Construction or Alteration. Notification will be provided to FAA Southern Region Headquarters using FAA Form 7460-1, Notice of Proposed Construction or Alteration in accordance with instructions therein. A subsequent Determination by the FAA stating that the structure exceeds any federal obstruction standard of 14 CFR Part 77, Subpart C for any structure that is located within a 10-nautical-mile radius of the geographical center of a public-use airport or military airfield in Florida will be required to submit information for an Airspace Obstruction Permit from the Florida Department of Transportation or variance from local government depending on the entity with jurisdictional authority over the site of the proposed structure. The FAA Determination regarding the structure serves only as a review of its impact on federal airspace and is not an authorization to proceed with any construction. However, FAA recommendations for marking and/or lighting of the proposed structure are made mandatory by Florida law. For a site under Florida Department of Transportation jurisdiction, application will be made by submitting Florida Department Transportation Form 725-040-11, Airspace Obstruction Permit Application, in accordance with the instructions therein.

vi. Traffic Control:

Traffic control will be maintained during construction and maintenance in compliance with the standards contained in the Manual of Uniform Traffic Control Devices; Rule Chapter 14-94, Statewide Minimum Level of Service Standards, Florida Administrative Code; Florida Department of Transportation's Roadway and Traffic Design Standards; Florida Department of Transportation's Standard Specifications for Road and Bridge Construction; and the Department's Utility Accommodation Manual, whichever is more stringent.

14). Fish and Wildlife Conservation Commission (FWC):

Within six months prior to the start of construction, the Licensee will survey the certified site for species of fish or wildlife listed in Florida Administrative Code and report any findings to FWC. If avoidance of impacts is not practicable, then the requirements of Article IV, Section 9 of the Florida Constitution, the rules thereto, as well as statutes relating to protected species, are applicable, and the FWC will be contacted prior to taking any action that might result in an impact to those species.

14. Construction In Waters Of The State

No construction in ~~waters of the State~~ State Owned Sovereign Submerged Lands(SSSL) as well as other applicable waters of the State shall commence without obtaining lease or title from the Board of Trustees of the Internal Improvement Trust Fund.

15. – 16. No Change

Written objections must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida 32399-3000. If the Department does not receive any written objections, then an Order Modifying the Conditions of Certification shall be issued by the Department. If written objections are timely filed which address only a portion of the modification, then pursuant to Rule 62-17.211(1)(b)5., F.A.C., the Department shall issue an Order approving that portion of the modification to which no objections were filed, unless that portion of the modification is substantially related to or necessary to implement the portion to which written objections are filed. If written objections are raised, then pursuant to Section 403.516(1)(c), F.S., the applicant may file a petition for modification with the Department and the Division of Administrative Hearings seeking approval for those portions of the modification to which written objections were timely filed.

Mediation is not available in this proceeding.

Any questions regarding this Final Order to Modify Conditions of Certification should be directed to Mike Halpin at (850) 245-8002. Questions regarding legal issues should be referred to the Department's Office of General Counsel at (850) 245-2242. Such contact with any of the above does not constitute an objection to the modification.

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.

Linda Korskovs
Clerk

10-02-07
Date

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Final Order has been sent by United States Postal Service to:

James V. Antista, Esquire Fish and Wildlife Conservation Commission 6230 South Meridian Street Tallahassee, FL 32399-1600 james.antista@fwc.state.fl.us	Kelly Martinson, Esquire Department of Community Affairs 2555 Shumard Oak Boulevard Tallahassee, FL 32399-2100 kelly.martinson@dca.state.fl.us
Samantha Cibula, Esquire Office of General Counsel, Florida Public Service Commission Gerald Gunter Building 2540 Shumard Oak Boulevard Tallahassee, FL 32308 scibula@psc.state.fl.us	Sheauching Yu, Esquire Department of Transportation Haydon Burns Building 605 Suwannee Street Mail Station 58 Tallahassee, FL 32399-0450 sheauching.yu@dot.state.fl.us
Martha Moore, Esquire Southwest FL Water Management District 2379 Broad St. Brooksville, FL 34609-6899 martha.moore@swfwmd.state.fl.us	Joseph Jarret, Esquire Office of the County Attorney POB 9000 Bartow, FL 33831-9000 joseph.jarret@polk-county.net
Angela Morrison-Uhland, Esquire Hopping Green Sams & Smith POB 6526 Tallahassee, FL 32314 auhland@hgslaw.com	Norman White, Esquire Central FL Regional Planning Council 555 East Church St Bartow, FL 33830 gatorwhite@msn.com
Denise Stalls Vice President, Environmental Affairs Orlando Utilities Commission 500 South Orange Avenue Orlando, Florida 32802 DStalls@ouc.com	Thomas B. Tart, Esquire Orlando Utilities Commission 500 South Orange St. Orlando, FL 32801 ttart@ouc.com
Toni Sturtevant, Esquire Department of Environmental Protection 3900 Commonwealth Blvd. Mail Station 35 Tallahassee, FL 32399-3000 toni.sturtevant@dep.state.fl.us	