



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

July 1, 2008

- 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 PA74-06O
OGC Case Number 08-0236

FINAL 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 eleven different occasions by final orders.

On February 12, 2008, the Department received a request to modify the Conditions of Certification for the Cane Island tap to Taft substation portion of the Lakeland-Taft Transmission line. The Department reviewed this request.

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 on or near March 25, 2008. Additionally, on March 28, 2008, notice of the Department's intent to modify the Conditions of Certification for this facility was published in the Florida Administrative Weekly. 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.

An objection was received by the City of Lakeland on June 3, 2008. The language in the Conditions of Certification has been revised to address that objection and their objection has been withdrawn as of June 24, 2008. For clarity, changes to the draft Final Order are listed below:

Condition II.A.13.a)13) -

From:

To fully offset the proposed direct, cumulative, and secondary impacts of 5.33 acres of wetland fill, the applicant shall purchase 5.33 freshwater herbaceous mitigation bank credits from an approved mitigation bank. The approved banks would be either the Reedy Creek Mitigation Bank (RCMB) or the Florida Mitigation Bank (FMB). Prior to construction commencement, the applicant shall provide mitigation funding transfer verification for 5.33 freshwater herbaceous credits, from the applicant to the RCMB or FMB, and submit to the Department (Central District), verification of 5.33 freshwater herbaceous credit withdraw from the approved bank ledger.

To:

To fully offset the proposed direct, cumulative, and secondary impacts of 5.33 acres of wetland fill, the applicant, Orlando Utilities Commission, shall purchase 5.33 freshwater herbaceous mitigation bank credits from an approved mitigation bank. The approved banks would be either the Reedy Creek Mitigation Bank (RCMB) or the Florida Mitigation Bank (FMB). Prior to construction commencement, the applicant shall provide mitigation funding transfer verification for 5.33 freshwater herbaceous credits, from the applicant to the RCMB or FMB, and submit to the Department (Central District), verification of 5.33 freshwater herbaceous credit withdraw from the approved bank ledger.

Condition II.A.13.a)14) –

From:

No net encroachment into the floodplain, between the average wet season water table and that encompassed by the 100 year event, which will adversely affect the existing rights of others, is allowed. Provision must be made to replace or otherwise mitigate the loss of historic basin storage provided by the project.

To:

No net encroachment into the floodplain, between the average wet season water table and that encompassed by the 100 year event, which will adversely affect the existing rights of others, is allowed. Provision must be made by the Applicant, Orlando Utilities Commission, to replace or otherwise mitigate the loss of historic basin storage provided by the project.

Further discussion between the DEP Central District Office and OUC determined that, due to some of the mitigation banks not having enough credits, alternative banks would be acceptable.

The Conditions of Certification for the McIntosh Unit No. 3 facility are hereby modified as follows:

II. SPECIFIC

A. Unit No. 3

1-12. No Change

13. Transmission Lines

a. Construction

1) -12) No Change

13). To fully offset the proposed direct, cumulative, and secondary impacts of 5.33 acres of wetland fill associated with the upgrades and replacement of structures and facilities within the Cane Island to Taft Substation Segment of the Lakeland-Taft Transmission Line, the applicant, Orlando Utilities Commission, shall purchase 5.33 mitigation bank credits from an approved mitigation bank. The approved bank for the impacts within the Reedy Creek and Shingle Creek basins would be the Florida Mitigation Bank (FMB). The approved bank for the impacts within the Boggy Creek basin would be the TM-Econ Mitigation Bank (TM-Econ). Prior to construction commencement, the applicant shall provide verification of purchase of 3.7 mitigation bank credits from the FMB, and 1.6 mitigation bank credits from TM-Econ, and submit to the Department (Central District), verification of the mitigation bank credit withdraw from the approved bank ledgers.

14). No net encroachment into the floodplain, between the average wet season water table and that encompassed by the 100 year event, which will adversely affect the existing rights of others, is allowed for that work associated with the upgrades and replacement of structures and facilities within the Cane Island Tap to Taft Substation Segment of the Lakeland-Taft Transmission line. Provision must be made by the Applicant, Orlando Utilities Commission, to replace or otherwise mitigate the loss of historic basin storage provided by the project.

135). Transportation:
No change

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

No Change

Citation: Condition II.A.13.13)-14). – SFWMD Basis of Review, Sections 4.3.2, 6.6 and 6.7

B. Unit No. 5

7. Stormwater Management

All stormwater is to be discharged into the existing McIntosh Power Plant Facility stormwater treatment units. Should there be any change in these treatment units that adversely affect the treatment of ~~wastewater~~ stormwater from the McIntosh Unit No. 5 these Conditions of Certification must be modified in accordance with Condition L.

The complete Conditions of Certification (including attachments) are available at the following web site: <http://www.dep.state.fl.us/siting/Highlights/conditions.htm>. Copies of the Conditions of Certification and/or attachments may also be obtained by contacting the Siting Coordination Office, Bob Martinez Center, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, (850) 245-8002.

Any party to the this Order has a right to seek judicial review of it pursuant to Section 120.68, Florida Statutes 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.

Executed in Tallahassee, Florida.


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

Attach:

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

 7/1/08
Clerk Date

CERTIFICATE OF SERVICE

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

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