



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

February 29, 2008

- CERTIFIED MAIL - RETURN RECEIPT REQUESTED -

Mr. Mark J. Hornick,
General Manager, Polk Power Station
Tampa Electric Company.
Post Office Box 111
Tampa, Florida 33601-0111

RE: Tampa Electric Company
Polk Power Station
Modification to Conditions of Certification
DEP Case Number PA92-32J
OGC Case Number 08-0370

FINAL ORDER MODIFYING CONDITIONS OF CERTIFICATION

Dear Mr. Hornick:

On December 27, 1993, the Department's notice of its intent to issue Air Construction Permit PSD-FL-194 for Polk Power Station Unit 1 was published in the *Tampa Tribune*. On July 10, 1999, the Department's notice of its intent to issue Air Construction Permit PSD-FL-263 for Polk Power Station Units 2 and 3 was published. The Department issued final permit PSD-FL-194 on February 28, 1994 and final permit PSD-FL-263 on October 8, 1999. Pursuant to 403.516 (1) (b), Florida Statutes ("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.

Additionally, on November 5th, 2003 the Department issued a Final Order Modifying Conditions of Certification (Mod F) for the Polk Power Station. All parties to the certification proceeding were provided with notice by certified mail of the Department's intent to modify Conditions of Certification, and a notice was published in the Florida Administrative Weekly on November 22, 2002 and on the Department's internet site on September 12, 2003. The Department is revising the Conditions of Certification to incorporate language that was inadvertently omitted at the time of the above mentioned modification to reflect the previously noticed changes.

The Conditions of Certification for the Polk Power Station are hereby modified as follows:

I. through XII. No Change.

XIII. AIR

The construction and operation of Polk Power Station (Project) shall be in accordance with all applicable provisions of Chapter 62, F.A.C., Air Construction Permits PSD-FL-194, PSD-FL-263, 1050233-018-AC (PSD-FL-363), and Title V Air Operation Permit 1050233-016-AV. Air Construction Permits PSD-FL-194, PSD-FL-263, 1050233-018-AC (PSD-FL-363), and Title V Air Operation Permit 1050233-016-AV are incorporated by reference herein as part of this Certification attached as Appendix II ~~through V~~ and Appendix III respectively. The provisions of ~~both~~ Air Construction Permits PSD-FL-194, PSD-FL-263, 1050233-018-AC (PSD-FL-363), and Title V Air Operation Permit 1050233-016-AV shall be conditions of this certification. The licensee shall comply with the substantive provisions and limitations set forth in ~~Air Construction Permit 1050233-018-AC and Title V Air Operation Permit 1050233-016-AV~~ these permits as part of these Conditions of Certification, and as those provisions may be modified, amended, or renewed 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.

XIV. through XXIV. No change.

XXV. MINE RECLAMATION CONDITIONS

A. through B. No change.

C. Reclamation/Restoration

The TEC shall reclaim and restore all lands within the 4,348-acre PPS site as depicted and described in the TEC's Site Certification Application and in ~~TEC's the Agrico Chemical Company's (a Division of the Freeport MacMoran Resource Partners, Limited Partnership)~~ conceptual plan modification application, TEC-PPS-CPA AGR-FG-CPG, in accordance with the required time schedules in Condition XXV.D and in a manner which will yield the following total (including non-mandatory acreages) post-reclamation land use acreages: 3 acres of transportation routes; 321 acres of industrial use as power plant associated facilities; 730 acres of improved pasture; 18 acres of citrus; 544 acres of shrub and brushland; 6 acres of mixed rangeland; 55 acres of upland hardwood forest; 774 acres of upland mixed forest; 264 acres of lakes; 834 acres of cooling reservoir; 61 acres of wetland hardwood forest; 310 acres of wetland mixed forests; and 428 acres of herbaceous wetlands. Of the total site acreage, 523 acres are non-mandatory acres and will exist as 201 ~~244~~ acres of improved pasture, 4 acres of shrub and brushland, 6 acres of mixed rangeland, 29 acres of upland hardwood forest, 34 acres of upland mixed forest, 165 acres of lakes, 40 acres of wetland hardwood forest, 11 acres of wetland mixed forest, and 33 ~~23~~ acres of herbaceous wetlands.

D. Time Tables

The TEC shall carry out and complete all reclamation and restoration activities in Tract A, all lands east of State Road 37, and Tract B, all lands west of State Road 37, within the Polk Power Station site in accordance with the following time tables:

TRACT	CONTOURING		REVEGETATION		ESTABLISHMENT	
	BEGINS	ENDS	BEGINS	ENDS	BEGINS	ENDS
A	06/94	11/95	12/95	05/96	06/96	05/97
B*	10/94	03/96	04/96	09/96	10/96	09/97

* In lieu of reclamation and restoration, TEC shall donate 1,511 acres of land in Tract B of the Polk Power Station site in Polk County to Polk County, donate 589 acres of submerged lands adjacent to the Cockroach Bay Aquatic preserve to the Tampa Bay Port Authority, and abide by the Conservation Easement for uplands adjacent to Cockroach Bay in Hillsborough County as granted to the State of Florida Board of Trustees in consideration for the variance to phosphate mine reclamation requirements and to provide significant regional benefit to wildlife and the environment as required for variances in accordance with Section 378.212(1) Florida Statutes. Such donation and transfer of ownership shall be as attached as Exhibit 1 hereto and as described in the Easement recorded in Hillsborough County Public Records Official Record Book 12822, Pages 1397 thru 1423; and the Conservation Easement as recorded in Hillsborough County Public Records Official Record Book 12822, Pages 1424 through 1452.

E. Standards

The TEC shall carry out and complete ~~conduct~~ all reclamation and restoration activities within the Polk Power Station site in accordance with the required time schedules as previously stated in Condition XXV.D. and in accordance with the requirements, criteria, and standards as set forth in Sections 16C-16.0051 and 16C-16.0053, F.A.C., (reference attached copy of these rules), with the following exceptions:

Variances for the following rules adopted pursuant to Chapter 378, F.S. shall be granted in accordance with the provision of Subsection 378.212(1)(a), F.S.:

1. No minimum annual zone of fluctuation shall be required for the 834-acre cooling reservoir, rather than the twenty-five (25) percent required by Subsection ~~62C~~16C-16.0051(5)(a), F.A.C.;
2. Approximately eight (8) percent (60 acres) of the low water surface of the cooling reservoir will consist of a zone between the annual low water line and six feet below the annual low water line to provide fish bedding areas and submerged vegetation zones, rather than the 20 percent required by Subsection ~~62C~~16C-16.0051(5)(b), F.A.C.; and,

Variances for the following rules adopted pursuant to Chapter 378, F.S. shall be granted in accordance with the provision of Subsection 378.212(1)(f), F.S.:

3. The herbaceous and mixed forest wetlands shall be reclaimed in reduced amounts, rather than the acre-for-acre and type-for-type restoration required by Subsection 62C-16.0051(4), F.A.C. ~~Reclamation and restoration activities within the Polk Power Station site shall be conducted and completed in accordance with the required time schedules as stated previously in Condition XXV.D.~~
4. No minimum zone of annual fluctuation shall be required for lakes west of SR 37, rather than the 25% required by Subsection 62C-16.0051(5)(a), F.A.C.

5. Some islands within the reclaimed lakes west of SR 37 may have steeper slopes than the 4:1 slopes required by Subsection 62C-16.0051(2)(a), F.A.C.

F. Right of Entry Authorized Representatives

All authorized representatives of the Department, on presentation of appropriate credentials to the applicable land owner and/or mine operator, or its authorized representatives, shall have the right of entry to, on, or through all lands subject to Chapter ~~62C 16C~~-16, F.A.C. Inspections shall be conducted in accordance with the requirements mandated in Subsections ~~62C 16C~~-16.0067(1)-(9), F.A.C.

G. Release Procedures

Upon fulfillment of the requirements, standards, and criteria, as dictated above in Conditions XXV. B. and C., within Tracts A and B of the TEC's PPS site, the authorized agent of the TEC or the applicable land owner ~~and/or mine operator~~ shall submit a release request to the Department that identifies the post-reclamation land use acreages to be released. The release request shall include a statement certifying that the requirements, standards, and criteria, as required in the Conditions XXV.B.,C.,D.,E., and F. above, have been met. This request shall be submitted to:

Department of Environmental Protection
Bureau of Mine Reclamation
2051 East Dirac Drive,
Tallahassee, Florida 32310.

Release procedures shall be followed in accordance with the requirements set forth in Subsections ~~62C 16C~~-16.0068(2)-(6), F.A.C.

H. Cockroach Bay

After transferring ownership of the approximately 589 acres of submerged lands in Hillsborough County adjacent to the Cockroach Bay Aquatic Preserve to the Tampa Bay Port Authority, and the Conservation Easement uplands and wetlands to the State of Florida Board of Trustees, as described in Condition XXV.D. above and Exhibit 1, TEC shall provide the State with easements for access and for management purposes including permanent State access to the uplands north of the Reeder property and at the shell pits located at the southwest side of the parcel as described in Exhibit 1. If TEC should decide to sell lands they hold in ownership that buffer the 1433 acres of uplands property, TEC shall offer a public entity including the State, Hillsborough County, or Southwest Florida Water Management District, or a non profit entity, whose mission is conservation, the right of first refusal.

XXVI through XXIX. No change.

XXX. POLK COUNTY

A. through H. No change.

I. Fishing Lake

1. TEC shall construct the recreational fishing lakes on the parcel west of SR 37 as proposed in the 1996, submissions to the DEP. The ungraded “nesting islands” in the fishing

lakes shall be planted with native trees as recommended by the Fish and Wildlife Conservation Commission.

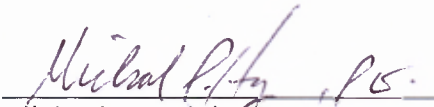
2. TEC shall donate the 1,511 acres of land in Tract B west of State Road (SR) 37 to the Polk County by December 31, 2003.

XXXI. No change.

Any party to 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.

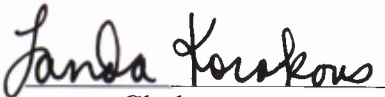
The Conditions of Certification and attachments are available in their entirety at the following file transfer protocol site: <ftp://ftp.dep.state.fl.us/pub/siting/Outgoing/TECO%20Polk>. Copies of the Conditions of Certification and attachments may also be obtained by contacting the Siting Coordination Office, Bob Martinez Center, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, (850) 245-8002.

Executed in Tallahassee, Florida.



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.

 2/29/08
Clerk Date

CERTIFICATE OF SERVICE

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

James V. Antista, General Counsel
Florida Fish and Wildlife Conservation
Commission
620 South Meridian Street
Tallahassee, FL 32399-1600
james.antista@fwc.state.fl.us

Samantha Cibula
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
scibula@psc.state.fl.us

Kelly Martinson
Office of General Counsel
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, FL 32399
kelly.martinson@dca.state.fl.us

Norman White, Esquire
Central Florida Regional Planning Council
555 East Church Street
Bartow, FL 33830
nwhite@cfrpc.org

Renee Lee, Esquire
Hillsborough County Attorney
601 E. Kennedy Blvd.,
County Center, 27th Floor
Tampa, FL 33602
leer@hillsboroughcounty.org

Richard Tschantz, Esquire
EPC of Hillsborough County
3629 Queen Palm Drive
Tampa, FL 33619-1309
tschantzr@epchc.org

Leon Biegalski
Assistant General Council
Florida Department of Transportation
650 Suwannee Street, Mail Station 58
Tallahassee, FL 32399-0450
Leon.Biegalski@dot.state.fl.us

Toni Sturtevant, Esquire
Department of Environmental Protection
3900 Commonwealth Blvd.
Mail Station 35
Tallahassee, FL 32399-3000
toni.sturtevant@dep.state.fl.us

Michael Craig, Esquire
Office of County Attorney
Polk County
Post Office Box 9005 Drawer AT01
Bartow, FL 33831
michaelcraig@polk-county.net

Martha A. Moore, Esquire
Southwest FL Water Management District
2379 Broad Street
Brooksville, FL 34604-6899
martha.moore@swfwmd.state.fl.us

Greg Nelson, P.E.
Tampa Electric Company
P.O. Box 111
Tampa, FL 33601-0111
gmnelson@tecoenergy.com

Donald Conn, Esquire
Tampa Bay Regional Planning Council
4000 Gateway Centre Blvs. Suite 100
Pinellas Park, FL 33782
dconn@penningtonlaw.com