

**STATE OF FLORIDA  
SITING BOARD**

IN RE: **CITY OF TALLAHASSEE PURDOM )  
UNIT 8, POWER PLANT SITING )  
APPLICATION PA 97-35 )**

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DOAH CASE NO. 97-1350EPP

DEP OGC CASE NO. 97-0498

**FINAL ORDER**

The Governor and Cabinet, sitting as the Siting Board pursuant to the Florida Electrical Power Plant Siting Act, Section 403.501 *et seq.*, Florida Statutes, have reviewed the Recommended Order dated August 27, 1997, which is attached as Exhibit 1. No exceptions have been filed by any party. Therefore it is

**ORDERED:**

1. The Recommended Order is adopted as the final order of the Siting Board.
2. The Siting Board finds that the existing plant site, for which natural gas is the primary fuel and oil is the secondary fuel, including the site for the new Purdom Unit 8 which is proposed to be operated using natural gas as the primary fuel and low sulfur oil as the secondary fuel and related onsite facilities, a new reclaimed water pipeline from the existing City of St. Marks wastewater treatment facility to the Purdom Generating Station, and the re-conductoring of two existing electrical transmission lines, are consistent and in compliance with local land use plans and zoning ordinances.

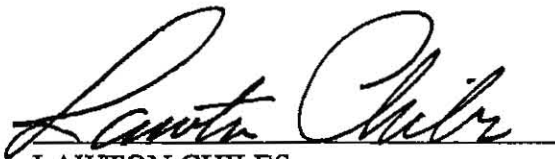
**NOTICE OF RIGHTS**

Any party to this Order has the right to seek its judicial review pursuant to Section 120.68, Florida Statutes, and Rule 9.110, Florida Rules of Appellate Procedure, by the filing of an original

Notice of Appeal with the Clerk of the Siting Board (who is also Clerk of the Department of Environmental Protection), M.S. 35, Office of General Counsel, Department of Environmental Protection, 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 30 days from the date this Order is filed with the Clerk of the Siting Board.

DONE AND ENTERED this 28<sup>th</sup> day of October, 1997, in Tallahassee, Florida, pursuant to the vote of the Governor and Cabinet, sitting as the Siting Board, at a duly constituted Cabinet meeting conducted on October 21, 1997.

BY THE GOVERNOR AND CABINET  
SITTING AS THE SITING BOARD

  
LAWTON CHILES  
GOVERNOR

FILING AND ACKNOWLEDGMENT FILED, ON THIS DATE,  
PURSUANT TO §120.52 FLORIDA STATUTES, WITH THE  
CLERK OF THE SITING BOARD (WHO IS THE  
DESIGNATED CLERK OF THE DEPARTMENT OF  
ENVIRONMENTAL PROTECTION), RECEIPT OF WHICH IS  
HEREBY ACKNOWLEDGED.

  
CLERK

10/28/97  
DATE

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the foregoing "Final Order," together with attached "Recommended Order," have been served by U.S. Mail or \*hand delivery this 28<sup>TH</sup> day of October, 1997, upon the following:

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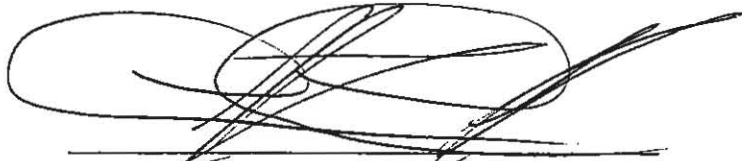
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STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

IN RE: CITY OF TALLAHASSEE )  
PURDOM UNIT 8 )  
POWER PLANT SITING ) Case No. 97-1350EPP  
APPLICATION PA 97-35, )  
\_\_\_\_\_ )

RECOMMENDED ORDER

Pursuant to notice, the Division of Administrative Hearings, by its duly designated Administrative Law Judge, P. Michael Ruff, held a formal hearing in the above-styled case on June 25, 1997, in St. Marks, Florida.

APPEARANCES

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### STATEMENT OF THE ISSUE

The issue for determination is whether the existing City of Tallahassee ("Tallahassee") Sam O. Purdom Generating Station site in the City of St. Marks, Wakulla County, Florida, including its associated linear facilities, and any proposed changes thereto, is consistent and in compliance with existing land use plans and zoning ordinances, pursuant to Sections 403.508(1) and (2) and 403.5175(3) of the Florida Power Plant Siting Act ("PPSA"), Sections 403.501-403.518, Florida Statutes.

### PRELIMINARY STATEMENT

On March 7, 1997, Tallahassee filed a power plant site certification application ("SCA"), pursuant to the PPSA. The SCA includes Tallahassee's existing Purdom Generating Station site in the City of St. Marks, Wakulla County, Florida, as well as the existing electrical generating units at that site and their associated facilities. Proposed changes, also addressed in the SCA, include a new Purdom Unit 8 and related onsite facilities, a new re-claimed water pipeline from the existing City of St. Marks wastewater treatment facility to the Purdom Generating Station, and the re-conductoring of two existing electrical transmission lines. The PPSA requires this land use hearing and a separate certification hearing, which will be held at a later date.

At the land use hearing, the parties stipulated to the admission of certain documents which were received into evidence as Administrative Law Judge Exhibits 1-9. Tallahassee called as witnesses: Robert E. McGarrah, the superintendent of production for Tallahassee's electric utility; Analee Moore, who was

accepted as an expert in land use planning; Charles C. Shields, who testified as the Mayor of St. Marks; and Harold Frediani, Jr., a rebuttal witness. Tallahassee Exhibits 1-7 were received into evidence. Wakulla County called as a witness George E. Mills, IV, who was accepted as an expert in land use and comprehensive planning. No other party called any witnesses or offered any other exhibits at the hearing.

#### FINDINGS OF FACT

1. Tallahassee published notices of this land use hearing on May 8, 1997, in the Tallahassee Democrat and The Wakulla News.

2. A copy of the land use hearing notice was posted at the entrance to the Purdom Generating Station site for more than 45 days prior to the land use hearing.

3. The Department of Environmental Protection ("DEP") published notice of the land use hearing in the Florida Administrative Weekly on May 9, 1997.

4. DEP also gave notice of the land use hearing by certified mail to the St. Marks City Manager, the Wakulla County Administrator, and the Leon County Administrator.

5. Wakulla County does not supervise land use in the City of St. Marks; rather, before permitting any development within the city limits of St. Marks, Wakulla County requires a letter from the City of St. Marks to confirm that the development is in compliance with the St. Marks Comprehensive Plan and Land Development Code, or refers it back to the City of St. Marks for that decision.

### The Purdom Generating Station

6. Tallahassee's existing Purdom Generating Station site, located in the City of St. Marks, Wakulla County, Florida, contains approximately 63 acres. The Purdom Generation Station site is bounded on the north by the St. Marks Refinery; on the west by Highway 363, known as the Woodville Highway; on the south by the McKenzie Petroleum products unloading, storage and transportation facility; and on the east by the St. Marks River.

7. Tallahassee's existing Purdom Generating Station includes: two existing gas turbine generators; retired Units 1-4 which are currently being demolished and removed; existing Units 5 and 6 which will be retired and removed from service prior to the operation of proposed Unit 8; existing Unit 7 which, along with the two existing gas turbine generators, will continue to operate; and various existing support and associated facilities.

8. Tallahassee has operated electrical generating units at the Purdom Generating Station site since 1952.

9. The proposed Purdom Unit 8 and its non-linear facilities will be constructed entirely within the existing Purdom Generating Station site, the boundaries of which will not need to be expanded.

10. The onsite components of the Purdom Unit 8 will include, among other things, a zero discharge water treatment facility and conversion of an existing fuel oil storage tank to a wastewater storage tank, both of which will enable Tallahassee to re-use re-claimed water to be furnished by the City of St. Marks.

11. Purdom Unit 8 will share various facilities in common with existing units at the Purdom Generating Station.

#### Associated Linear Facilities

12. The only linear facility associated with the Purdom Generating Station that will require new right-of-way, approximately 30 feet wide, is the re-claimed water pipeline, with its pumping station, which will transport treated effluent from the existing City of St. Marks wastewater treatment facility to the Purdom Generating Station. The preferred re-claimed water pipeline route will run entirely, and the alternate route will run mostly along City of St. Marks street rights-of-way.

13. The re-claimed water pipeline from the City of St. Marks wastewater treatment facility to the Purdom Generating Station will eliminate a present discharge of pollutants to the St. Marks River, relieve the City of St. Marks of the costs of maintaining discharge permits or establishing alternate disposal methods such as discharge to a spray field, and reduce the amount of surface water required for cooling at the Purdom Generating Station. Use by the City of Tallahassee of re-claimed water transported by the proposed pipeline will relieve the City of St. Marks of permitting burdens and its citizens of a potentially burdensome economic impact.

14. Two existing Tallahassee electrical transmission lines, running from the Purdom Generating Station northward through Wakulla County into Leon County, will be re-conducted. Re-conducting will occur entirely within existing transmission line rights-of-way, which are typically 100 feet wide. Re-

conductoring will consist of replacing existing cable with larger cable on existing structures, with no change in voltage and no replacement of structures unless damage is found. The existing transmission lines could handle the full load output of the Purdom Generating Station, but are proposed for re-conductoring in order to protect against the contingency of a transmission line outage.

15. A Tallahassee groundwater wellfield and the pipeline connecting it to the Purdom Generation Station are existing facilities which are proposed for certification, but they will be abandoned and closed following the successful commencement of commercial operation of Purdom Unit 8.

16. Florida Gas Transmission Company ("FGT") will change the connection of its existing natural gas lateral pipeline serving the Purdom Generating Station from its 30-inch to its 36-inch main gas transmission line at its gate station in Leon County, hydrostatically test the lateral pipeline to rate it for higher pressure, and possibly install a "loop" of pipe adjacent to the existing lateral pipeline to reduce system resistance. FGT will make the decisions concerning, and obtain permits for any work on its pipeline facilities, so improvements to the natural gas lateral pipeline off the Purdom Generating Station site are not proposed for certification by Tallahassee.

Consistency and Compliance of the  
Reclaimed Water Pipeline Routes with  
Land Use Plans and Zoning Ordinances

17. The re-claimed water pipeline, which is the only facility for which Tallahassee proposes to expand the existing

Purdom Generating Station site or its associated rights-of-way, will traverse various future land use categories as designated on the Future Land Use Map of the City of St. Marks Comprehensive Plan. Policy 1.2.4 of the Future Land Use Element of the City of St. Marks Comprehensive Plan provides that:

Public utilities needed to provide essential service to existing and future land uses in the City of St. Marks shall be permitted in all of the land use classifications established by this plan.

The proposed re-claimed water pipeline, with its lift station, is a public utility needed to provide essential service to existing and future land uses in the City of St. Marks.

18. The City of St. Marks does not have a separate zoning map; however, Section 2.01.01 of the City of St. Marks Land Development Code provides that the Comprehensive Plan governs zoning, making Findings of Fact Number 17 applicable under the City of St. Marks Land Development Code, as well:

The land use districts and classifications defined in the Future Land Use Element of the City Comprehensive Plan and delineated on the Future Land Use Map shall be determinants of permissible activities on any parcel in the jurisdiction.

19. Wakulla County does not assert that the re-claimed water pipeline route(s) are inconsistent with the Wakulla County Comprehensive Plan or Land Development Code.

Consistency and Compliance of the  
Purdom Generating Station Site and  
Associated Linear Facility Rights-of-Way  
with Land Use Plans and Zoning Ordinances

20. Tallahassee's existing Purdom Generating Station site is located in an area designated for Industrial use by the Future

Land Use Map of the City of St. Marks Comprehensive Plan and was used for that purpose at the time the Comprehensive Plan was adopted. The manufacturing of products and similar activities, plus public service utilities, are authorized in Industrial areas under the City of St. Marks Comprehensive Plan and Land Development Code. Public utilities, including linear facilities needed to provide essential services to existing and future land uses, such as the Purdom Generating Station in the City of St. Marks, are permitted by the City of St. Marks in all land use classifications.

21. The two transmission lines which Tallahassee proposes to re-conductor are specifically shown on the Future Land Use Map of the Wakulla County Comprehensive Plan. The Wakulla County Land Development Code exempts from the definition of "development" which it regulates:

Work by a utility . . . for the purpose of inspecting, repairing, renewing or constructing on established rights-of-way any . . . cables, . . . power lines, towers, poles, tracks or the like . . .

22. The Tallahassee-Leon County Comprehensive Plan does not address the re-conductoring of existing electrical transmission lines. The Leon County Land Development Regulations is exempt from the site plan approval requirements of that code "right-of-way and easements dedicated for public benefit use . . .," which includes the re-conductoring of transmission lines within established rights-of-way as proposed by Tallahassee.

### CONCLUSIONS OF LAW

23. The Division of Administrative Hearings has jurisdiction over this subject matter and the parties to this action pursuant to Section 120.57(1), Florida Statutes.

24. DEP and Tallahassee provided timely public notice of the land use hearing. Rule 62-17.151(4), Florida Administrative Code.

25. The sole issue for determination in this land use hearing is whether Tallahassee's existing Purdom Generating Station site, including its associated linear facilities, and any proposed changes thereto, are consistent and in compliance with existing land use plans and zoning ordinances. Section 403.508(2), Florida Statutes.

26. Because Tallahassee's application is for certification of an existing power plant, its site, and changes thereto, the scope of the sole issue for determination in this land use hearing is limited to whether any proposed expansion of the site boundaries, including associated linear facilities, is consistent and in compliance with existing land use plans and zoning ordinances. Sections 403.503(12), (24), (25), and 403.175(2)(b), (3), Florida Statutes.

27. Wakulla County proffered testimony concerning the impacts of Tallahassee's proposal on natural resources, human health and safety, and flood levels as those matters may be addressed in the Wakulla County Comprehensive Plan. Even if the scope of this land use hearing were to include the Purdom

Generating Station site and all of its associated facilities, notwithstanding the fact that the re-claimed water pipeline route constitutes the only proposed boundary expansion, the subject matter of this hearing would nonetheless be limited to land use, not the overall environmental impacts of Tallahassee's proposal. See Sections 403.508(2) and 403.5175(3) and compare Section 403.503(12) and (25), Florida Statutes. See also In Re: South Broward Resource Recovery Project Power Plant Siting Certification Application PA 85-21, DOAH Case Numbers 85-1106, 85-1166 (Kendrick), at 6, paragraph 14 (recommended order September 18, 1985). Consideration of the overall environmental impacts will occur at the later certification hearing. Section 403.5175(4), Florida Statutes.

28. The applicable land use plan and zoning regulations for the Purdom Generating Station site and its associated linear facilities within the City of St. Marks, including the proposed re-claimed water pipeline route(s) as the sole expansion of site boundaries, are contained within the City of St. Marks Comprehensive Plan and the City of St. Marks Land Development Code.

29. The applicable land use plans and zoning regulations for the linear facilities associated with the Purdom Generating Station site outside the city limits of St. Marks are contained within the Wakulla County Comprehensive Plan, the Wakulla County Land Development Code, the Tallahassee-Leon County Comprehensive Plan, and the Leon County Land Development Regulations.

30. Subject to the recognition in Conclusion of Law Number 27 that environmental impact issues may be addressed at the certification hearing, Tallahassee's existing Purdom Generating Station site, including its associated linear facilities, and the proposed changes within their existing boundaries, are consistent and in compliance with existing land use plans and zoning ordinances.

#### RECOMMENDATION

Based upon the findings of fact and conclusions of law, it is,

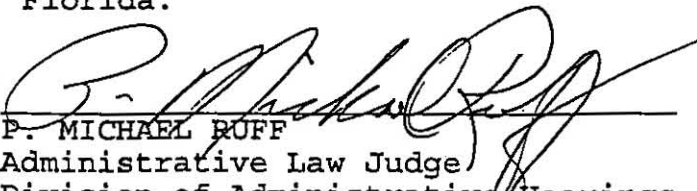
#### RECOMMENDED:

That the Governor and Cabinet, sitting as the Siting Board, enter a final order determining that:

A) The proposed re-claimed water pipeline route(s) are consistent and in compliance with existing land use plans and zoning ordinances; and

B) If deemed subject to the land use hearing requirement, the existing Sam O. Purdom Generation Station site, its associated linear facilities, and the proposed changes within their existing boundaries, are consistent and in compliance with existing land use plans and zoning ordinances; provided, however, that environmental impact issues may be addressed at the certification hearing.

DONE AND ENTERED this 27<sup>th</sup> day of August, 1997, in  
Tallahassee, Leon County, Florida.

  
P. MICHAEL RUFF  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(904) 488-9675 SUNCOM 278-9675  
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Filed with the Clerk of the  
Division of Administrative Hearings  
this 27<sup>th</sup> day of August, 1997.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.