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Governor

Department of Environmental Protection

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Tallahassee, Florida 32399-2400

Colleen M. Castille
Secretary

MAILED
26 Apr 04 bjh

April 26, 2004

- CERTIFIED MAIL - RETURN RECEIPT REQUESTED -

John J. Hunter
Progress Energy Florida
Post Office Box 14042
St. Petersburg, FL 33733-4042

**RE: Tiger Bay Cogeneration Facility
Modification to Conditions of Certification
DEP Case Number PA 97-37X ← B
OGC Case Number 04-0132**

ORDER MODIFYING CONDITIONS OF CERTIFICATION

Dear Mr. Hunter:

On July 8, 2003 the Hines Energy Complex conditions of certification, PA92-33E, were modified to also allow the receipt and use at the Hines Energy Complex of industrial wastewater generated at the Tiger Bay Generating Station and to allow the construction of a new pipeline to convey this water from the Tiger Bay facility to the Hines Energy Complex site. The modification also granted permission to transfer, during an interim water supply shortage and no later than November 30, 2005, to the Hines Energy Complex any portion of the groundwater withdrawal authorized for consumptive use at the Tiger Bay Cogeneration Facility and that is unneeded at that time for the operation of the Tiger Bay facility. This water would be conveyed to the Hines Energy Complex in the same pipeline built to convey the industrial wastewater. For consistency, the modification of the Hines Energy Complex conditions of certification requires modification of the Tiger Bay conditions of certification.

On February 9, 2004, all parties to the certification proceeding were provided with notice by certified mail 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 February 13, 2004, notice of the Department's intent to modify the Conditions of Certification for this facility was published on the Department's internet home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices." Those notices specified that pursuant to Section 403.516, Florida Statutes ("F.S."), and Rule 62-17.211, Florida Administrative Code ("F.A.C."), all parties to the certification proceeding have 45 days from the issuance of notice by mail to such party's last address of record in which to file a written objection to the modification; 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; that failure to act within the time frame constitutes a waiver of the right to become a party; and that the Department will issue an Order Modifying the Conditions of Certification for this facility if no written objections are received by the Department.

No objections to the modification have been received by the Department. The Conditions of Certification for the Tiger Bay Cogeneration Facility are hereby modified as follows:

{Note: all occurrences in the Conditions of Certification of the name "Florida Power Corporation" shall be replaced with the name "Progress Energy Florida" and all occurrences in the Conditions of Certification of the acronym "FPC" shall be replaced with the acronym "PEF" without specific reference to change in this Final Order.}

I through XIV.D.12 no change.

XIV.D. 13 Transfer of authorized Upper Floridan aquifer groundwater withdrawal to PEF's Hines Energy Complex.

a. An interim water supply shortage shall mean a shortage of previously authorized process and cooling water sources which results in the inability of PEF to prevent the operational water level of the Hines cooling pond from being lowered below an elevation of 158.5 feet National Geodetic Vertical Datum (NGVD). If the water level becomes less than 158.5 feet NGVD, despite all reasonable efforts by PEF to prevent such lowering of water level by utilizing all previously authorized water sources to the greatest extent practicable, PEF is authorized until November 30, 2005, to transfer Upper Floridan aquifer groundwater authorized to be used at PEF's Tiger Bay facility to the Hines cooling pond. When the water level in the Hines cooling pond rises to an elevation of 158.5 feet NGVD, and PEF is able to successfully maintain the water level at or above 158.5 feet NGVD for seven (7) consecutive days, the water supply shortage shall be considered to have ended and PEF shall discontinue the use of transferred groundwater from Tiger Bay.

b. The quantity of groundwater authorized for use at the Tiger Bay facility shall be reduced by the amount of that source being transferred to the Hines cooling pond during the water supply shortage. At no time will the groundwater quantities produced at the Tiger Bay facility exceed the permitted quantities for the facility.

c. The monthly groundwater pumpage reports required to be submitted to SWFWMD per condition XIV.D.4 shall include a breakdown of quantities produced for use at the Tiger Bay facility, water shortage transfer to the Cooling Pond at the Hines Energy Complex, and for flushing the pipelines associated with water conveyance to the Hines Energy Complex.

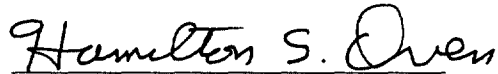
XIV.E 1. There shall be no direct discharge from this facility of any industrial

wastewater, domestic wastewater, or contact stormwater to any surface water or land surface.

2. Stormwater and industrial wastewater may be transferred to PEF's Hines Energy Complex by way of connecting pipeline.

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.



Hamilton S. Oven, 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.

 4/26/04
Clerk Date

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