



Florida Department of Environmental Protection

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

May 14, 2010

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Ms. Carol Ann Wehle
Executive Director
South Florida Water Management District
3301 Gun Club Road
West Palm Beach, Florida 33406

and

Ms. Barbara P. Linkiewicz
Director, Environmental Licensing
Florida Power & Light Company
700 Universe Boulevard
Juno Beach, Florida 33408

RE: West County Energy Center
DEP Case Number PA05-47
Post-certification Amendment dated May 10, 2010

Dear Ms. Wehle and Ms. Linkiewicz:

On May 11, 2010 the Florida Department of Environmental Protection's (DEP's) Siting Coordination Office (Department) received a request from the South Florida Water Management District (SFWMD), in cooperation with the Florida Power & Light Company (FPL), for a post certification amendment to the Site Certification Application for FPL's West County Energy Center (WCEC). The amendment is to authorize FPL to commence temporary water withdrawals from the SFWMD's L-8 Reservoir Project (L-8 Reservoir). The amendment also includes the temporary placement of a water pipeline from the L8 Reservoir to the WCEC.

Pursuant to Section 62-17.205(c), F.A.C., the Department has determined that this request is an amendment to the application that will not require modification to the Conditions of Certification for the facility.

The SFWMD's Governing Board approved a Right Of Entry Agreement for this project on May 13, 2010. A portion of this project occurs on adjacent property owned by Palm Beach Aggregates (PBA). FPL shall enter into an appropriate property rights agreement with PBA, prior to impacting PBA property.

Based on review of the submittal dated May 10, 2010, the Department has no objection to the placement of the water pipeline and the temporary withdrawal of water from the SFWMD L8

Reservoir by FPL, provided that FPL continues to comply with all existing requirements of its Conditions of Certification and with the following additional SFWMD requirements.

1. The temporary use of water from the L-8 Reservoir shall not be construed as a certification of use by FPL, pursuant to Rule 40E-8.421(q)Ce), F.A.C., or Section 3.2.1 .E.S(a) or 6(a) of the Basis of Review. Moreover, this authorization shall not be construed to grant a consumptive use permit or water right, pursuant to Part III Chapter 373, F.S.
2. If the SFWMD identifies any adverse impacts to water resources, existing legal users, off-site land uses, listed species, or SFWMD-owned lands from the proposed withdrawals, the SFWMD reserves the right to terminate temporary withdrawals until the impacts have been resolved to the satisfaction of the SFWMD.
3. Withdrawals from the SFWMD L-8 Reservoir shall terminate upon delivery of reclaimed water to the project site or by January 31, 2011, whichever is sooner. FPL shall immediately notify the SFWMD and Department upon commencement of reclaimed water delivery to the project site. If unforeseen circumstances arise which require temporary withdrawals from the L-8 Reservoir to continue beyond January 31, 2011, FPL may file a request for an extension of the authorization to withdraw water from the L-8 Reservoir for up to an additional 90 days, subject to approval by the SFWMD and the Department, and submittal of documentation from FPL that includes documentation from Palm Beach County stating that the delivery of reclaimed water to the site has been delayed or the supply is not yet reliable. FPL shall file the extension request no later than January 21, 2011.
4. In the event a water shortage is declared by the SFWMD, the SFWMD may require FPL to cease withdrawals from the L-8 Reservoir. FPL shall terminate withdrawals from the L-8 Reservoir within 7 days of receipt of written, electronic, or verbal notification from the SFWMD. The Department shall be notified accordingly.
5. SFWMD and FPL shall each have the unilateral right, in its sole and absolute discretion to terminate this Agreement, for any reason, upon thirty 30 days written notice to the other party and the Department.
6. Temporary withdrawals from the SFWMD L-8 Reservoir shall not exceed 223.2 million gallons per month. FPL shall submit monthly withdrawal reports to the SFWMD and to the Department.

The Department's Order shall become final unless a timely petition for an administrative hearing is filed under sections 120.569 and 120.57, Florida Statutes ("F.S."), within 21 days of receipt of this Order. The procedures for petitioning for a hearing are set forth below.

Persons affected by this Order have the following options:

If you choose to accept the above decision by the Department concerning the postcertification amendment you do not have to do anything. This Order is final and effective as of the date on the top of the first page of this Order.

If you disagree with the decision, you may do one of the following:

1. File a petition for administrative hearing with the Department's Office of General Counsel within 21 days of receipt of this Order; or

2. File a request for an extension of time to file a petition for hearing with the Department's Office of General Counsel within **21** days of receipt of this Order. Such a request should be made if you wish to meet with the Department in an attempt to informally resolve any disputes without first filing a petition for hearing.

Please be advised that mediation of this decision pursuant to section 120.573, Florida Statutes ("F.S."), is not available.

How to Request an Extension of Time to File a Petition for Hearing

For good cause shown, pursuant to rule 62-110.106(4), Florida Administrative Code ("F.A.C."), the Department may grant a request for an extension of time to file a petition for hearing. Such a request must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida, 32399-3000, within **21** days of receipt of this Order. Petitioner, if different from the addressee, shall mail a copy of the request to the addressee at the time of filing. Timely filing a request for an extension of time tolls the time period within which a petition for administrative hearing must be made.

How to File a Petition for Administrative Hearing

A person whose substantial interests are affected by this Order may petition for an administrative proceeding (hearing) under sections 120.569 and 120.57, F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, MS 35, Tallahassee, Florida, 32399-3000, within **21** days of receipt of this Order. Petitioner, if different from the addressee, shall mail a copy of the petition to the addressee at the time of filing. Failure to file a petition within this time period shall waive the right of anyone who may request an administrative hearing under sections 120.569 and 120.57, F.S.

Pursuant to subsections 120.54(5)(b)4 and 120.569(2), F.S. and rule 28-106.201, F.A.C., a petition for administrative hearing shall contain the following information:

- a) The name, address, and telephone number of each petitioner, the name, address, and telephone number of the petitioner's representative, if any, the site owner's name and address, if different from the petitioner, the DEP facility number, and the name and address of the facility;
- b) A statement of how and when each petitioner received notice of the Department's action or proposed action;
- c) An explanation of how each petitioner's substantial interests are or will be affected by the Department's action or proposed action;
- d) A statement of the material facts disputed by the petitioner, or a statement that there are no disputed facts;
- e) A statement of the ultimate facts alleged, including a statement of the specific facts the petitioner contends warrant reversal or modification of the Department's action or proposed action;
- f) A statement of the specific rules or statutes the petitioner contends requires reversal or modification of the Department's action or proposed action; and

- g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Department's action or proposed action.

This Order is final and effective as of the date on the top of the first page of this Order. Timely filing a petition for administrative hearing postpones the date this Order takes effect until the Department issues either a final order pursuant to an administrative hearing or an Order Responding to Supplemental Information provided to the Department pursuant to meetings with the Department.

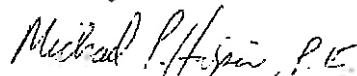
Judicial Review

Any party to this Order has the right to seek judicial review of it under section 120.68, F.S., by filing a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department in the Office of General Counsel, Mail Station 35, 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 thirty days after this order is filed with the clerk of the Department (see below).

Questions

Any questions regarding the Department's review of your postcertification amendment should be directed to Michael P. Halpin, P.E. at (850) 245-2002. Questions regarding legal issues should be referred to the Department's Office of General Counsel at (850) 245-2242. Contact with any of the above does not constitute a petition for administrative hearing or request for an extension of time to file a petition for administrative hearing.

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.


Clerk

5/14/10
Date

Service List

CC by certified mail or email (return receipt requested):

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City, State, ZIP+4	Florida Power & Light Company
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	Juno Beach, Florida 33408
PS Form 3800, August 2006 See Reverse for Instructions	

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Sent To	CAROL ANN WEHLE (SFWMD)
Street, Apt. No., or PO Box No.	3301 Gun Club Rd.
City, State, ZIP+4	West Palm Beach, FL 33406
PS Form 3800, August 2006 See Reverse for Instructions	