

Exhibit A

Manatee Protection Plan



Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

David B. Struhs
Secretary

Department of Environmental Protection

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

In the matter of:

Approval of FPL Lauderdale Plant
Manatee Protection Plan

DEP Permit No. FL0001503
Broward County

Mr. Ron Hix
Florida Power & Light Company
P.O. Box 088801
North Palm Beach, FL 33408-08801

NOTICE OF AGENCY ACTION

The Department of Environmental Protection hereby gives notice of its approval of the enclosed Manatee Protection Plan for the FPL Lauderdale Plant, completed June 23, 1999 pursuant to Specific Condition 13 of Permit Number FL0001503.

A person whose substantial interests are affected by the Department action may petition for an administrative hearing in accordance with sections 120.569 and 120.57 of the Florida Statutes.

The petition must contain the information set forth below and must be filed (received) in the Department of Environmental Protection, Office of General Counsel, Mail Station 35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000. Petitions filed by the applicant or any of the parties listed below must be filed within twenty-one days of receipt of this notice of intent. Petitions filed by any other person must be filed within twenty-one days of publication of the public notice or within twenty-one days of receipt of this notice of intent, whichever occurs first. A petitioner must mail a copy of the petition to the applicant at the address indicated above, at the time of filing. The failure of any person to file a petition within the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under sections 120.569 and 120.57 of the Florida Statutes, or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the discretion of the presiding officer upon the filing of a motion in compliance with rule 28-5.207 of the Florida Administrative Code.

A petition must contain the following information:

- (a) The name, address, and telephone number of each petitioner; the Department case identification number and the county in which the subject matter or activity is located;
- (b) A statement of how and when each petitioner received notice of the Department action;
- (c) A statement of how each petitioner's substantial interests are affected by the Department action;

"Protect, Conserve and Manage Florida's Environment and Natural Resources"

- (d) A statement of the material facts disputed by the petitioner, if any;
- (e) A statement of facts that the petitioner contends warrant reversal or modification of the Department action;
- (f) A statement of which rules or statutes the petitioner contends require reversal or modification of the Department action; and
- (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take.

Because the administrative hearing process is designed to formulate final agency action, the filing of a petition means that the Department final action may be different from the position taken by it in this order. Persons whose substantial interests will be affected by any such final decision of the Department on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

Mediation under section 120.573 of the Florida Statutes is not available for this proceeding.

This action is final and effective on the date filed with the Clerk of the Department unless a petition is filed in accordance with the above. Upon the timely filing of a petition this order will not be effective until further order of the Department.

Any party to the order has the right to seek judicial review of the order under section 120.68 of the Florida Statutes, by the filing of a notice of appeal under rule 9.110 of the Florida Rules of Appellate Procedure with the Clerk of the Department of Environmental Protection, 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 30 days from the date when the final order is filed with the Clerk of the Department.

Executed in Tallahassee, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Mimi Drew

Director

Division of Water Resource Management

2600 Blair Stone Road
Tallahassee, FL 32399-2400
(850) 487-1855

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this NOTICE OF AGENCY ACTION and all copies were mailed before the close of business on 08-18-99 to the listed persons.

FILING AND ACKNOWLEDGMENT

FILED, on this date, under section 120.52(7), Florida Statutes, with the designated Department Clerk, receipt of which is hereby acknowledged.

G. Shields 08-18-99
(Clerk) (Date)

Copies furnished to:

Tim Powell, DEP Southeast District
Kipp Frohlich, FWC Tallahassee
Jennifer Fitzwater, DEP Office of General Counsel
Scott Cowan, Chairman, Board of Broward County Commissioners
Jim Valade, U.S. Fish and Wildlife Service
Save the Manatee Club



Florida Fish and Wildlife Conservation Commission

NAS Tim
File

James L. "Jamie" Adams, Jr. Bushnell	Barbara C. Barsh Jacksonville	Patrick E. Geraghty Ft. Myers	Quinton L. Hedgepeth, DDS Miami	H.A. "Herky" Huffman Deltona	
Thomas B. Kilber Lakeland	David K. Meehan St. Petersburg	Julie K. Morris Sarasota	Tony Moss Miami	Edwin P. Roberts, DC Pensacola	John D. Rood Jacksonville

ALLAN L. EGBERT, Ph.D., Executive Director
VICTOR J. HELLER, Assistant Executive Director

620 South Meridian Street
Tallahassee, FL 32399-1600
www.state.fl.us/gfc
(850)487-3796
IDD (850)488-9542

July 6, 1999

Vince Seibold
Florida Department of Environmental Protection
Industrial Wastewater Section
Mail Station 3545
2600 Blair Stone Road
Tallahassee, FL 32399-2400

RECEIVED
JUL 09 1999

Industrial Wastewater Section

Dear Vince;

I have attached the Manatee Protection Plan dated June 23, 1999 for Florida Power & Light's (FPL) Lauderdale facility. The Bureau of Protected Species Management has reviewed the attached plan and with this letter acknowledges our acceptance of this plan as that required by permit condition 13, of the FPL-Lauderdale's NPDES permit. Pursuant to the agreed upon approval protocol for the NPDES Manatee Protection Plans, I have provided the following chronological list recounting the submittal of Florida Power & Light-Lauderdale's draft Manatee Protection Plans and our corresponding responses.

July 17, 1998	The Bureau of Protected Species Management receives a draft manatee protection plan from Florida Power & Light for their Lauderdale facility.
September 10, 1998	The Bureau of Protected Species Management provides comments and recommends modifications to FPL regarding their Lauderdale facility's draft Manatee Protection Plan
December 17, 1998	FPL provides the Bureau of Protected Species Management a second draft of the FPL-Lauderdale Manatee Protection Plan
February 23, 1999	The Bureau of Protected Species Management provides recommended final changes to FPL-Lauderdale's Manatee Protection Plan
May 28, 1999	The Bureau of Protected Species Management provides the U. S. Fish and Wildlife Service (USFWS) with a copy of the FPL-Lauderdale draft Manatee Protection Plan for review and comment.

V. Seibold
July 6, 1999
Page 2

June 1, 1999	The USFWS provides several recommended modifications to the FPL-Ft Lauderdale final draft plan.
June 3, 1999	The Bureau of Protected Species receives a carbon copy of the USFWS letter to the Department's Industrial Wastewater Section providing their concurrence to the attached Manatee Protection Plan for the FPL-Ft Lauderdale facility dated June 23, 1999.
June 30, 1999	The Bureau of Protected Species Management receives concurrence from FPL-Lauderdale on the attached Manatee Protection Plan dated June 23, 1999.

If you have any questions or need further information, please call me at suncom 292-4330.

Sincerely,

OFFICE OF ENVIRONMENTAL SERVICES



R. Kipp Frohlich
Biological Administrator
Bureau of Protected Species Management

\rrm

NPDES.099\IWW-FPL-Lauderdale-ltr 706.doc

ENV 7-2

Attachment

cc: R Hix
J Valade

Florida Power & Light - Lauderdale Manatee Protection Plan

Purpose:

The purpose of the Lauderdale Plant Manatee Protection Plan is to set forth Florida Power & Light Company's (FPL) procedures to comply with Specific Condition 13 of the facility's State Industrial Wastewater Permit Number FL0001503 that was issued on January 16, 1998. This Specific Condition reads, in part:

13. The permittee, in so far as required to comply with Tasks 25 and 251 of the U.S. Fish and Wildlife Service (USFWS) "Florida Manatee Recovery Plan," shall develop a plan and procedures addressing potential manatee impacts. All plans, if required, shall include an implementation schedule and address, at a minimum:
- (a) Plans to minimize disruption to warm-water outflows during the winter and response procedures in case of disruptions.
 - (b) Strategy to maintain discharge temperatures that will sustain manatees during cold events
 - (c) Plan to monitor ambient and discharge temperatures
 - (d) Precautions to minimize hazards to manatees at intake and outfall areas.
 - (e) Timely communication to manatee recovery program personnel of any long term changes in the availability of warm water

Compliance with Specific Condition 13:

1. This Manatee Protection Plan will be in effect during the term of the permit mentioned above. In order for the plant's warm water discharge to provide a safe, warm water refuge for the manatees and to comply with Specific Condition 13, FPL will take the following actions:

- a) In the case of an unplanned shutdown or plant failure that will affect the warm water refuge from November 15 through March 31, when the ambient water temperature is below 61°F, the Florida Wildlife Conservation Commission (FWCC) and USFWS will be notified no later than four (4) hours after the event has occurred. The following agency representatives shall be notified in the above referenced event or if any distressed manatees are observed at any time:

FWCC - Florida Marine Research Institute - Marine Mammal Pathobiology Lab: (813)-893-2904
USFWS - Jacksonville Field Office: (904) 232-2580

The FWCC, Bureau of Protected Species Management (BPSM) shall be provided a schedule of any anticipated in-water work within the discharge canal or work that will affect the warm water refuge during the period of November 15 through March 31 each year. No routine in-water maintenance work shall occur in the discharge canal from November 15 through March 31, unless it is considered essential by FPL and approved by BPSM prior to the start of work. If emergency in-water work is needed, the BPSM will be notified and consulted no later than two weeks following the commencement of the activity. All vessels used in the operation or associated with the activity shall be operated pursuant to the attached standard manatee construction conditions.

- b) From November 15 through March 31 each year, to coincide with the time of greatest manatee abundance, if the ambient water temperature falls below 61°F, the FPL Lauderdale plant shall endeavor to operate in a manner that maintains the water temperature in an adequate portion of the discharge canal at or above 68°F, until such time as the ambient water temperature reaches 61°F, unless otherwise authorized by BPSM and the USFWS, or unless safety or reliability of the plant would be compromised.
 - c) The FPL Lauderdale power plant will provide personnel from the BPSM, USFWS, Florida Marine Research Institute, USGS-Sirenia Project, or a designee of these agencies, access to the FPL Lauderdale power plant property to conduct manatee research and monitoring activities which may include, placing, maintaining and downloading data from temperature data loggers. These temperature data loggers will be used to collect air and water temperature data in an ongoing research effort to better understand manatee behavior patterns in response to artificial warm water refugia and environmental variables. The temperature data loggers will be placed in the discharge canal and at ambient water and air locations. Access would be limited to normal business hours (8:00am - 5:00pm) unless arrangements are made in advance with the FPL Lauderdale power plant.
 - d) Intake Area: No special surveys will be required for the intake area.

Discharge Area: No special surveys will be required for the discharge canal.
 - e) Should FPL decide to retire these units, notice will be provided to FWCC and USFWS as soon as practical after a definite decision is made or, if possible, at least five years prior to the date of retirement.
 - f) To assist in documenting long-term use patterns of this facility, FPL should conduct periodic aerial surveys of manatees at the Lauderdale facility. The continuation of the ongoing statewide aerial survey that FPL has funded in the past years meets these criteria.
 - g) The FPL Lauderdale Power Plant will provide phone numbers for weekday and weekend notification of appropriate plant personnel for the purpose of allowing FWCC or USFWS to coordinate manatee rescue operations as necessary.
- 2.) FPL actions, pursuant to this plan, that will be conducted on a one-time basis unless there are significant physical or operational changes to the FPL Lauderdale power plant.
- a) Provide a site map of the facility as a part of the plan that includes the following information;
 - 1. The location of the intake pipes and outfall pipes.
 - 2. Proximate streams, rivers, bays, etc.
 - 3. The location of the condenser inlet and outlet temperature monitoring stations.
 - 4. The location of any fuel barge docking facilities in relation to the discharge canal.
 - 5. The delineation of the no-entry boundary at the discharge canal.
 - b) In order to evaluate and determine what portions of the thermal discharge will provide a sufficient warm water refuge for manatees under potential cold stress water conditions; the FPL Lauderdale power plant will, within two (2) years of the effective date of this plan, provide a profile of the thermal gradient (either actual or calculated) of the discharge canal waters, as well as its gross bathymetry, at the mean rate of discharge when the ambient water temperature reaches a seasonal low.

**FLORIDA POWER & LIGHT -- LAUDERDALE PLANT
MANATEE PROTECTION PLAN**

**1a) STANDARD MANATEE CONSTRUCTION CONDITIONS FOR ARTIFICIAL
WARM WATER REFUGIA DURING THE PERIOD OF NOVEMBER 15
THROUGH MARCH 31.**

The permittee shall comply with the following manatee protection conditions:

- a. The permittee shall instruct all personnel associated with in-water work within the discharge canal and/or the warm water refuge of the potential presence of manatees and the need to avoid collisions with manatees. All vessels used in the operation or in association with the in-water work shall have an observer on board responsible for identifying the presence and location of manatee(s).
- b. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act of 1972, The Endangered Species Act of 1973, and the Florida Manatee Sanctuary Act.
- c. All vessels associated with in-water work associated with the discharge canal and/or warm water refuge shall operate at "no wake/idle" speeds at all times while in the manatee warm water refuge area. All vessels will follow routes of deep water whenever possible.
- d. If manatee(s) are seen within the discharge canal and/or warm water refuge area all appropriate precautions shall be implemented to ensure protection of the manatee(s). These precautions shall include the immediate shutdown of equipment if necessary. Activities will not resume until the manatee(s) has departed to a safe distance on its own volition.
- e. Any collision with and/or injury to a manatee shall be reported immediately to the Florida Wildlife Conservation Commission at 1-888-404-FWCC (1-888-404-3922). Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-232-2580).