



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

March 3, 2010

Tracy Patterson II, General Manager
Cedar Bay Generating Plant
9640 Eastport Road
Jacksonville, FL 32218
(904) 751-4000

Re: Cedar Bay Cogeneration Project
Modification to Conditions of Certification
DEP Case Number PA 88-24I
OGC Case Number 09-4160

FINAL ORDER MODIFYING CONDITIONS OF CERTIFICATION

Dear Mr. Patterson:

The Governor and Cabinet (Siting Board) issued the Site Certification for the Cedar Bay Cogeneration, Inc.(CBC or CBCP) and Smurfit-Stone Container Corp (SSCC) Cedar Bay Cogeneration Plant on January 22, 1991. This certification authorized the construction and operation of three circulating fluidized bed steam generators (boilers) generating a total 250 MW (corrected scrivener's error of 225 megawatts shown on draft final order) electricity and associated facilities. Crushed coal is the primary fuel with approval for limited co-firing of petroleum coke and tire-derived fuel

The Cedar Bay Generating Company, L.P. (CBGC) has requested that the name shown on the Site Certification be corrected. The facility owner asserts that it has always been Cedar Bay Generating Company L.P. with Cedar Bay Cogeneration, Inc. as a business entity partner. The Department of Environmental Protection (Department) has incorporated that request into the Conditions of Certification by this Final Order.

Pursuant to 403.516(1)(c)2., F.S., the Department has initiated a modification to the Conditions of Certification of Cedar Bay Cogeneration Project. The modification is to modify the Conditions of Certification of the Cedar Bay Cogeneration Plant-Condition IV.G (Ground Water Monitoring Requirements) to conform with revised rule language, including the facility's Ground Water Monitoring Report [DEP form 62-620.910(10)]. This form is required by Rule 62-620, F.A.C. Wastewater Permitting.

Cedar Bay is located and operates on a 28-acre parcel of property owned by Smurfit Stone via a long-term ground lease. The area is zoned heavy industrial and has been an active site for Smurfit Stone for

many years. Prior to Smurfit, Rayonier/St. Regis conducted industrial paper operations on the site. The leased site where Cedar Bay is constructed and operates was a dedicated waste disposal area for Smurfit between 1972 and 1991. As a pre-requisite to site development for Cedar Bay, ENSR conducted a detailed site assessment that included groundwater analyses, soil borings and a compilation of the industrial history of the leased area. As a result of the particular land use, it was found that there was already an established level of contamination that existed in the groundwater. There are exceedances of the Department's drinking water standards for metals (antimony, arsenic, beryllium, chromium, copper, lead, mercury, nickel and zinc) and sulfate at many of the wells.

As a result of these findings, prior to operation, Cedar Bay conducted groundwater monitoring on a monthly basis in order to establish defined baselines of the parameters in the monitoring wells. As there was authenticated pre-established contamination, Cedar Bay uses pre-operational groundwater data for comparison purposes and as a baseline to substantiate that facility operations has not impacted the zones of discharge. In both the ground water rule 62-520, F.A.C. and Condition IV.G.15., it is stated, "If the concentration for any constituent listed in Condition IV.G.11. in the natural background quality of the ground water is greater than the stated maximum, or in the case of pH is also less than the minimum, the representative background quality shall be the prevailing standard." This facility does have elevated levels of certain contaminants in the background wells, and they are protected from this background well rule requirement.

On or before January 15, 2010, 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. On January 22, 2010, notice of the Department's intent to modify the Conditions of Certification for this facility was published on the Florida Administrative Weekly (FAW). 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 Cedar Bay Cogeneration Plant are hereby modified as follows:

Throughout the Conditions Cedar Bay Cogeneration, Inc.(CBC) has been changed to Cedar Bay Generating Company, L.P. (CBGC) and the acronym "RESO" has been changed to "the City" to represent the City of Jacksonville Environmental Division.

I. GENERAL

A. Applicability

When a condition is intended to refer to both ~~Cedar Bay Cogeneration, Inc. (CBC)~~ Cedar Bay Generating Company, L.P. (CBGC) and Smurfit-Stone Container Corp., the term “~~CBC/CBGC/SSCC~~” or “licensees” will be used. When a condition is intended to refer to the “Cedar Bay Cogeneration Project” the terms “Cedar Bay Cogeneration Project”, “CBCP”, or “Project” will be used.

Where a condition applies only to ~~Cedar Bay Cogeneration, Inc. (CBC)~~ Cedar Bay Generating Company, L.P. (CBGC) the term ~~Cedar Bay Cogeneration, Inc. (CBC)~~ Cedar Bay Generating Company, L.P. (CBGC) or the term “licensee”, where it is clear that “~~CBC(CBGC)~~” is the intended responsible party, will be used. Similarly, where a condition applies only to Smurfit-Stone Container Corp., the term “Smurfit-Stone Container Corp.” or the abbreviation “SSCC” or the term “licensee”, where it is clear that SSCC is the intended responsible party, will be used. The Department of Environmental Protection may be referred to as DEP or the Department. ~~ERM-EQD represents the City of Jacksonville,~~ Environmental Resource Management-Environmental Quality Division will be referred to as “the City”, SJRWMD represents the St. Johns River Water Management District.

B. No Change

II. AIR

A. Requirements

The construction and operation of CBCP shall be in accordance with all applicable provisions of Chapters 62-210 through 62-297, F.A.C. Title V Air Operation Permit 0310337-0136-AV and PSD-FL-137 ~~and Air Construction Permit 0310337-012-AC~~ are incorporated by reference herein as part of this Certification attached as Appendix 4 and Appendix 2-II respectively. The provisions of ~~both Title V Air Operation Permit Number 0310337-0136-AV and Air Construction Permit 0310337-012-AC~~ the aforementioned permits shall be conditions of this certification. The licensee shall comply with the substantive provisions and limitations set forth in Title V Air Operation Permit Number 0310337-0136-AV and PSD-FL-137, ~~and Air Construction Permit 0310337-012-AC~~ 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.

B. No Change

III. WATER DISCHARGES

Any discharges into any waters of the State during construction and operation of ~~CBCP~~ CBCPGC shall be in accordance with all applicable provisions of Chapters 62-301, 62-302 and 62-660, F.A.C., and 40 CFR, Part 423, Effluent Guidelines and Standards for Steam Electric Power Generating Point Source Category, except as provided herein and with NPDES Permit FL 0061204 (attached as Appendix III) and any subsequent modifications, amendments or revisions to this permit. Also, ~~CBCP~~ CBCPGC shall comply with the following conditions of certification:

A. - B. No Change

IV. GROUND WATER

A-F No Change

G. Ground Water Monitoring Requirements

~~After consultation with the DEP, RESD, and SJRWMD, CBCP shall install a monitoring well network to monitor ground water quality horizontally and vertically through the aquifer above the Hawthorn Formation. Ground water quantity and flow directions will be determined seasonally at the site through the preparation of seasonal water table contour maps, based upon water level data obtained during the applicant's preoperational monitoring program. From these maps and the results of the detailed subsurface investigation of site stratigraphy, the water quality monitoring well network will be located. A ground water monitoring plan that meets the requirements of Section 62-522.600(3), F.A.C., shall be submitted to the Department's Northeast District Office for review. Approval or disapproval of the ground water monitoring plan shall be given within 60 days of receipt. Ground water monitoring shall be required at CBCP's pelletized ash storage area, each sedimentation pond, and each coal pile storage area, and SSCC's new lime mud storage area. Insofar as possible, the monitoring wells may be selected from the existing wells and piezometers used in the licensee's preoperational monitoring program, provided that the wells construction will not preclude their use. Existing wells will be properly sealed in accordance with Chapter 62-532, F.A.C., whenever they are abandoned due to construction of facilities. The water samples collected from each of the monitor wells shall be collected immediately after removal by pumping of a quantity of water equal to at least three casing volumes. The water quality analyses shall be performed monthly during the year prior to commercial operation and quarterly thereafter. No sampling or analysis is to be initiated until receipt of written approval of a site specific quality assurance project plan (QAPP) by the Department. Results shall be submitted to the RESD by the fifteenth (15th) day of the month following the month during which such analyses were performed prior to commercial operation, or by the 30th day of the month following the calendar quarter such analyses were performed after start of commercial operation.~~

Testing for the following constituents is required around unlined ponds or storage areas:

_____ TDS	_____ Cadmium
_____ Conductance	_____ Zinc
_____ pH	_____ Copper
_____ Redox	_____ Nickel
_____ Sulfate	_____ Selenium
_____ Sulfite	_____ Chromium
_____ Color	_____ Arsenic
_____ Chloride	_____ Beryllium
_____ Iron	_____ Mercury
_____ Aluminum	_____ Lead
_____ Gross Alpha	

~~Conductivity shall be monitored in wells around all lined solid waste disposal sites, coal piles, and wastewater treatment and sedimentation ponds.~~

1. The Licensee shall install a ground water monitoring well network to monitor the water quality of the surficial aquifer both horizontally and vertically above the Hawthorn Formation.

2. The Licensee shall conduct ground water monitoring at the pelletized ash storage area, coal storage area, storage area runoff pond(s), sedimentation ponds, unlined disposal ponds, and the re-located lime mud storage area within Smurfit-Stone Container Corporation's landfill site.
3. The Licensee shall give at least 72-hours notice to the DEP's Northeast District Office, prior to the installation of any monitoring well(s).
4. Prior to construction of any monitoring well(s), a soil boring shall be made at each monitoring well location in order to properly determine the well depth and screen interval.
5. All monitoring wells shall be constructed and developed in accordance with the DEP's guidelines and installed by a licensed water well contractor.
6. Within 30 days after installation of a monitoring well, the Licensee shall submit to the DEP's Northeast District Office detailed information on the well's location and construction on DEP Form 62-520.900(3), Monitor Well Completion Report.
7. All piezometers and monitoring wells not part of the approved ground water monitoring plan are to be plugged and abandoned in accordance with Chapter 62-532.500(4), F.A.C., unless future use is intended.
8. For land application sites, all ground water quality criteria specified in Chapter 62-520, F.A.C., shall be met at the edge of the zone of discharge. The zone of discharge for this project shall extend horizontally 200 feet from the application site, or to the Licensee's property lines, whichever comes first, and vertically to the base of the Surficial Aquifer.
9. During the period of operation, the Licensee shall sample ground water at the monitoring wells identified in Condition IV.G.10. below in accordance with this site certification and the approved ground water monitoring plan prepared in accordance with Chapter 62-520.600, F.A.C.
10. The following monitoring wells shall be sampled at the pelletized ash storage area, coal storage area, storage area runoff pond(s), sedimentation ponds, unlined discharge ponds, and the re-located lime mud storage area within Smurfit-Stone Container Corporation's landfill site.

Monitor Well ID	Alternate Well Name and/or Description of Monitoring Location	Depth (Feet)	Aquifer Monitored	New or Existing
MWC-1	CBLM-1 / 30 feet east of railroad tracks, northwest of unlined Lime Mud Storage Area.	25	Surficial	Existing
MWC-2	CBLM-2 / 30 feet east of railroad tracks, southwest of unlined Lime Mud Storage Area.	25	Surficial	Existing
MWB-3	CBLM-3 / 120 feet north of unlined Lime Mud Storage Area.	25	Surficial	Existing
MWB-4	CBLM-4 / 78 feet west of fence along Eastport Rd., and east of unlined Lime Mud Storage Area.	25	Surficial	Existing
MWC-5	CBLM-5 / 50 feet south of unlined Lime Mud Storage Area.	20	Surficial	Existing

Monitor Well ID	Alternate Well Name and/or Description of Monitoring Location	Depth (Feet)	Aquifer Monitored	New or Existing
MWB-1A	MW-1A / 25 feet southeast of lined Coal Storage Area.	20	Surficial	Existing
MWB-1B	MW-1B / 25 feet southeast of lined Coal Storage Area.	50	Surficial	Existing
MWC-2A	MW-2A / 25 feet west of lined Coal Storage Area.	20	Surficial	Existing
MWC-2B	MW-2B / 25 feet west of lined Coal Storage Area.	50	Surficial	Existing
MWB-3A	MW-3A / 5 feet east of the Fire Water Tank.	20	Surficial	Existing
MWB-3B	MW-3B / 5 feet east of the Fire Water Tank.	50	Surficial	Existing
MWC-4A	MW-4A / 5 feet west of lined Pellet Storage Area.	20	Surficial	Existing
MWC-4B	MW-4B / 5 feet west of lined Pellet Storage Area.	50	Surficial	Existing
MWC-5A	MW-5A / 20 feet west of lined Storage Area Runoff Pond 1.	20	Surficial	Existing
MWC-5B	MW-5B / 20 feet west of lined Storage Area Runoff Pond 1.	50	Surficial	Existing
MWC-6A	MW-6A / 20 feet west of unlined Yard Area Runoff Pond 2.	20	Surficial	Existing
MWC-6B	Mw-6B / 20 feet west of unlined Yard Area Runoff Pond 2.	50	Surficial	Existing

MWB = Background; MWC = Compliance



11. The following parameters shall be analyzed for each monitoring well identified in Condition IV.G.10.

Parameter	Units	Sample Type	Monitoring Frequency
Water Level (NGVD)	Feet	In-situ	Quarterly
pH (field)	SU	In-situ	Quarterly
Specific Conductance (field)	umhos/cm	In-situ	Quarterly
Aluminum, Total Recoverable	ug/L	Grab	Quarterly
Arsenic, Total Recoverable	ug/L	Grab	Quarterly
Barium, Total Recoverable	ug/L	Grab	Quarterly
Beryllium, Total Recoverable	ug/L	Grab	Quarterly
Cadmium, Total Recoverable	ug/L	Grab	Quarterly
Chromium, Total Recoverable	ug/L	Grab	Quarterly
Copper, Total Recoverable	ug/L	Grab	Quarterly
Iron, Total Recoverable	ug/L	Grab	Quarterly
Lead, Total Recoverable	ug/L	Grab	Quarterly
Mercury, Total Recoverable	ug/L	Grab	Quarterly
Nickel, Total Recoverable	ug/L	Grab	Quarterly
Selenium, Total Recoverable	ug/L	Grab	Quarterly
Zinc, Total Recoverable	ug/L	Grab	Quarterly
Gross Alpha	pCi/L	Grab	Quarterly
Chloride	mg/L	Grab	Quarterly
Turbidity	NTU	In-situ	Quarterly
Sulfate	mg/L	Grab	Quarterly
Total Dissolved Solids	mg/L	Grab	Quarterly

12. Water levels shall be recorded before evacuating each well for sample collection. Elevation references shall include the top of the well casing and land surface at each well site (NAVD allowable) at a precision of plus or minus 0.01 foot.

13. Ground water monitoring wells shall be purged before sampling to obtain representative samples.

14. The ground water minimum criteria specified in Chapter 62-520.400 F.A.C., shall be met within the zone of discharge.

15. If the concentration for any constituent listed in Condition IV.G.11. in the natural background quality of the ground water is greater than the stated maximum, or in the case of pH is also less than the minimum, the representative background quality shall be the prevailing standard.

16. Analyses shall be conducted on unfiltered samples, unless filtered samples have been approved by the DEP's Northeast District Office as being more representative of ground water conditions.

17. If any monitoring well becomes damaged or inoperable, the Licensee shall notify the DEP's Northeast District Office immediately and a detailed written report shall follow within seven

days. The written report shall detail what problem has occurred and remedial measures that have been taken to prevent recurrence. All monitoring well design and replacement shall be approved by the DEP's Northeast District Office prior to installation.

18. The Licensee shall ensure that all monitor well sampling is performed in accordance with the DEP's Standard Operating Procedures Manual for Field Sampling, and shall conform to the applicable Quality Assurance/Quality Control requirements of Chapter 62-160, F.A.C.

19. The Licensee shall ensure that all monitor well samples are analyzed by a certified laboratory that meets the requirements of Chapter 62-160, F.A.C. Minimum detection limits shall be at or below the ground water standards and/or criteria.

20. Ground water sampling and reporting shall conform to the schedule set forth below with monitoring results submitted on DEP Form 62-620.910(10) (attached as Attachment A), or such other format as approved by the DEP. If the Licensee elects to enter the monitoring results into the DEP's electronic system, a hard copy of the report is not required to be submitted to the DEP for that monitoring period, but shall be printed out for the Licensee's records.

Sample Period	Quarterly	Report Deadline
(January-March)	X	April 28 th
(April-June)	X	July 28 th
(July-September)	X	October 28 th
(October-December)	X	January 28 th

21. All correspondence, reports, plans and summaries pertaining to ground water monitoring shall be submitted to the Ground Water Section of the DEP's Northeast District Office with copies to the DEP's Siting Office in Tallahassee, the DEP's Wastewater Compliance Evaluation Section in Tallahassee, and the local City of Jacksonville's Environmental Division.

H. — Leachate

1. — Zone of Discharge

~~Leachate from CBCP's coal storage piles, SSCC's lime mud storage area or CBCP's sedimentation ponds shall not cause or contribute to contamination of waters of the State (including both surface and ground waters) in excess of the limitations of Chapter 62-302 and 62-520, F.A.C., beyond the boundary of a zone of discharge extending to the top of the Hawthorne Formation below the waste landfill cell or pond rising to a depth of 50 feet at a horizontal distance of 200 feet from the edge of the storage pile, landfill or ponds, or rising to the boundary of the site, as appropriate.~~

2. — Corrective Action

22. When the ground water monitoring system shows a potential for this facility to cause or contribute to a violation of the ground water quality standards of Chapter 62-520, F.A.C., at the boundary of the zone of discharge, the appropriate ponds or coal pile shall be bottom sealed, relocated, or the operation of the affected facility shall be altered in such a manner as to assure the Department that no violation of the ground water standards will occur beyond the boundary of the zone of discharge.

I.-J. No Change

Condition V-XXIX No Change

A complete set of the Conditions of Certification (including attachments) can be viewed and downloaded from the following website: <http://www.dep.state.fl.us/siting/certification.htm>

Copies of the Conditions of Certification and/or attachments may also be obtained by contacting Michael P. Halpin, P.E., Administrator, Siting Coordination Office, Department of Environmental Protection, 3900 Commonwealth Blvd., M.S. 48, Tallahassee, Florida 32399-3000, (850) 245-2007.

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.

The Department also notes that in the near future it will be initiating a modification pursuant to Section 403.516(1)(c), F.S., to update Cedar Bay Cogeneration Plant's existing Conditions of Certification to incorporate a uniform set of General Conditions consistent with recent Site Certifications. If you have any questions regarding this upcoming modification, please contact Ann Seiler at (850) 245-2143.

Executed in Tallahassee, Florida.

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.

 3-3-10
Clerk Date

CC by certified mail:

Terry Cole, Esquire
Oertel, Hoffman, Fernandez & Cole, P.A.
Post Office Box 1110
Tallahassee, Florida 32302-1110
tcollection@ohfc.com

Veronica Thiebach, Esquire
St. Johns River Water Management District
P.O. Box 1429
Palatka, FL 32178-1429
vthiebach@sjrwmd.com

Jason Teal, Esquire
Assistant General Counsel
City of Jacksonville
117 West Duval Street
Suite 480
Jacksonville, FL 32202
JTeal@coj.net

Emily Norton, Esquire
Fish and Wildlife Conservation Commission
620 South Meridian Street
Tallahassee, FL 32399-1600
emily.norton@myfwc.com

Kimberly Menchion, Esq.
Assistant General Counsel
Department of Transportation
605 Suwannee Street, MS 58
Tallahassee, FL 32399-0458
kimberly.menchion@dot.state.fl.us

Bryan Teeple
Northeast Regional Planning Council
6850 Belfort Oaks Place
Jacksonville, FL 32216
bteeple@nefrfc.org

Charles W. Bostwick
Post Office Box 12
Jacksonville, Florida 32201

Angela R. Morrison, Esq.
Hopping Green & Sams, P.A.
P.O. Box 6526
Tallahassee, Florida 32317
auhland@hgslaw.com

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

Matt Davis, Esquire
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, Florida 32399-2100
matthew.davis@dca.state.fl.us

Jennifer Brubaker, Esq.
Florida Public Service Commission
Gerald Gunter Building
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850
JBrubake@PSC.STATE.FL.US