

Docket No. 50-335

JUL - 1 1970

Mr. George Kinsman
Senior Vice President
Florida Power & Light Company
P. O. Box 3100
Miami, Florida 33101

Distribution
AEC PDR
Docket File
DR Reading
DRL Reading
PWR-1 Reading
P. A. Morris
E. G. Case, DRS
R. C. DeYoung
Compliance (2)
N. Dube (3 encl)
D. Skovholt
P. Collins
N. M. Blunt

bcc: H. J. McAlduff, ORO
E. E. Hall, GMR/H
J. A. Harris, PI
R. Leith, OC
J. R. Buchanan, ORNL
T. W. Laughlin, DTIE
A. A. Wells, ASLB
J. Verme, SMM
D. Nussbaumer, DML
S. Robinson, SECY
J. Saltzman, SLR
G. Ertter, DR
E. B. Tremmel, IP

Dear Mr. Kinsman:

The Atomic Energy Commission has issued Construction Permit No. CPPR-74 to the Florida Power and Light Company, authorizing it to construct a pressurized water nuclear reactor, designated as the Hutchinson Island Plant, to be located at the applicant's site in St. Lucie County, Florida. The 1132-acre site is located about halfway between Ft. Pierce and Stuart on the east coast of Florida.

A copy of the Construction Permit is enclosed, together with a related notice which has been transmitted to the Office of the Federal Register for filing and publication.

The Permit has been issued pursuant to the Initial Decision of the Atomic Safety and Licensing Board. A copy of the Decision is enclosed.

Sincerely,

Original Signed by
Peter A. Morris

Peter A. Morris, Director
Division of Reactor Licensing

Enclosures:

1. Construction Permit No. CPPR-74
2. Federal Register Notice
3. Initial Decision

cc: Mr. Roy B. Snapp
1725 K Street N. W.
Suite 512
Washington, D. C.

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|-----------|-----------|-----------|-----------|-----------|---------|---------|
| OFFICE ▶ | DRL:PWR | DRL:PWR-1 | DRL:PWR-1 | DRL:PWR-1 | DRL:PWR | DRL |
| SURNAME ▶ | Blunt/pjf | McCoy | Fischer | DeYoung | DeYoung | Morris |
| DATE ▶ | 5/20/70 | 5/25/70 | 5/25/70 | 5/26/70 | 6/2/70 | 6/11/70 |

UNITED STATES ATOMIC ENERGY COMMISSION

DOCKET NO. 50-335

FLORIDA POWER AND LIGHT COMPANY

(Hutchinson Island Nuclear Power Plant)

NOTICE OF ISSUANCE OF CONSTRUCTION PERMIT

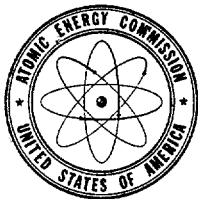
Notice is hereby given that, pursuant to the Initial Decision of the Atomic Safety and Licensing Board, dated **JUN 30 1970**, the Director of the Division of Reactor Licensing has issued Construction Permit No. CPPR-74 to the Florida Power and Light Company for construction of a pressurized water nuclear reactor at the applicant's site in St. Lucie County, Florida. The 1132-acre site is located about halfway between Ft. Pierce and Stuart on the east coast of Florida. The reactor, known as the Hutchinson Island Nuclear Power Plant, is designed for initial operation at approximately 2440 thermal megawatts with a net electrical output of approximately 813 megawatts.

A copy of the Initial Decision is on file in the Commission's Public Document Room, 1717 H Street, N. W., Washington D. C.

Dated at Bethesda, Maryland, this *1st* day of *July* 1970.

FOR THE ATOMIC ENERGY COMMISSION

Original Signed by
Peter A. Morris
Peter A. Morris, Director
Division of Reactor Licensing



UNITED STATES
ATOMIC ENERGY COMMISSION
WASHINGTON, D.C. 20545

FLORIDA POWER AND LIGHT COMPANY

(Hutchinson Island Nuclear Power Plant)

DOCKET NO. 50-335

CONSTRUCTION PERMIT

Construction Permit No. CPPR-74

1. Pursuant to § 104 b. of the Atomic Energy Act of 1954, as amended (the Act), and Title 10, Chapter 1, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and pursuant to the order of the Atomic Safety and Licensing Board, the Atomic Energy Commission (the Commission) hereby issues a construction permit to the Florida Power and Light Company (the applicant) for a utilization facility (the facility), designed to operate at 2440 megawatts (thermal) described in the application and amendments thereto (the application) filed in this matter by the applicant and as more fully described in the evidence received at the public hearing upon that application. The facility, known as Hutchinson Island Nuclear Power Plant will be located at the applicant's site on the East Coast of Florida on Hutchinson Island in St. Lucie County halfway between Fort Pierce and Stuart, Florida.
2. This permit shall be deemed to contain and be subject to the conditions specified in § § 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act, and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the conditions specified or incorporated below:
 - A. The earliest date for the completion of the facility is January 1, 1973, and the latest date for completion of the facility is January 1, 1974.
 - B. The facility shall be constructed and located at the site as described in the application in St. Lucie County, Florida.

- C. This construction permit authorizes the applicant to construct the facility described in the application and the hearing record in accordance with the principal architectural and engineering criteria set forth therein.
 - D. In the construction and operation of the facility, Florida Power and Light Company shall observe such standards and requirements for the protection of the environment as are validly imposed under Federal and State Laws.
3. This permit is subject to the limitation that a license authorizing operation of the facility will not be issued by the Commission unless (a) the applicant submits to the Commission, by amendment to the application, the complete final safety analysis report, portions of which may be submitted and evaluated from time to time; (b) the Commission finds that the final design provides reasonable assurance that the health and safety of the public will not be endangered by the operation of the facility in accordance with procedures approved by it in connection with the issuance of said license; and (c) the applicant submits proof of financial protection and the execution of an indemnity agreement as required by § 170 of the Act.

FOR THE ATOMIC ENERGY COMMISSION

Original Signed by
Peter A. Morris

Peter A. Morris, Director
Division of Reactor Licensing

Dated at Bethesda, Maryland
this ^{1st} day of *July*, 1970.

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of the
Application of

FLORIDA POWER AND LIGHT COMPANY)
For a Construction Permit for)
a Nuclear Power Plant on))
Hutchinson Island, St. Lucie)
County, Fort Pierce, Florida)

Docket No. 50-335

Appearances

William C. Steel, Esquire and Roy B. Snapp, Esquire
on behalf of the Applicant

Thomas T. Rogers, Esquire on behalf of the Honorable
Walter J. Hickel, Secretary of the Department
of the Interior

James F. Littman, Esquire on behalf of the Martin
County Taxpayers Association, Inc.

T. T. Turnbull, Esquire, Assistant Attorney General
on behalf of the State of Florida

Gerald F. Hadlock, Esquire and Neil J. Newman, Esquire
on behalf of the U. S. Atomic Energy
Commission Regulatory Staff

INITIAL DECISION

Preliminary Statement

1. This proceeding involves the application of the
Florida Power & Light Company ("Applicant"), filed under
Section 104b. of the Atomic Energy Act of 1954, as amended
("Act"), for a construction permit to construct a pressurized

water reactor, designed to operate initially at 2440 megawatts (thermal), to be located at the Applicant's site on Hutchinson Island on the eastern coast of Florida in St. Lucie County. The applicant modified its application by nine amendments, the last of which was filed on April 27, 1970.

2. The application, not including Amendment 9, was reviewed by the regulatory staff ("Staff") of the Atomic Energy Commission ("Commission") and by the Advisory Committee on Reactor Safeguards ("ACRS"); each concluded that there is reasonable assurance that the proposed facility can be constructed and operated at the proposed site without undue risk to the health and safety of the public.

3. In accordance with the requirements of the Act and pursuant to a Notice of Hearing published April 7, 1970, (35 FR 5639), a prehearing conference was held on April 28, 1970, in Washington, D. C., and a hearing was held in Fort Pierce, Florida, on May 12 and 13, 1970. In the prehearing conference this Board granted timely filed separate petitions to intervene on behalf of Martin County Taxpayers Association, Inc. ("Association"), and Walter J. Hickel, Secretary of the Interior of the United States. These intervenors were represented by counsel at the hearing, and evidence was presented on behalf of the Secretary of the Interior.

4. Intervention by the Association was sought and granted in opposition to Applicant's proposal to draw large volumes of plant cooling water from the Indian River. Applicant's Amendment 9 changed its proposal by projecting an Atlantic Ocean location for its cooling water intake. Pursuant to a Board-approved stipulation on the hearing record that this application and the hearing thereon pertain only to a project which will not use Indian River water, the Association withdrew as an intervenor and took no further part in the proceeding.

5. The State of Florida participated in the hearing proceedings pursuant to Section 2.715c of the Commission's rules. A representative of the Department of Air and Water Pollution Control read a statement on behalf of that Department's Chairman, who is a Special Assistant to the Governor of Florida, and also presented a separate statement. The Chairman's statement, complaining of insufficient notice to Florida officials, expressed the view that "The Atomic Energy Commission should withhold the construction permit in this case until the State of Florida and the concerned Federal agencies are satisfied that our environment and the delicate ecology of the Indian River are fully protected." ^{1/} He looks forward to

^{1/} The Assistant Attorney General for the State of Florida made explicit his view that the Department Chairman's statement was his own and did not necessarily reflect the position of the State of Florida.

working with the Commission and the Applicant to satisfy the need for the power plant, yet protecting the area's environmental quality. The separate statement of the Department's representative pointed to his agency's licensing authority over the water intake and discharge system, and recommended that any permit issued by any other authority be contingent upon the issuance of that Department's construction permit.

6. Florida's Director of the Division of Health and the State's Secretary of the Department of Health and Rehabilitative Services presented, through Dr. Chester L. Nayfield, statements for the hearing record. These statements described past and proposed radiological surveillance programs in cooperation with the Applicant, the Commission, the United States Public Health Service, and the Department of the Interior. These State officials concluded that the Applicant's plant as proposed does not constitute a radiological hazard to the public health and safety. The Director of the Florida Game and Freshwater Fish Commission submitted a statement pointing out that many possible ecological problems were averted by the Applicant's shift to ocean water use; he expressed a continuing concern because the water temperature increase of 25 degrees Fahrenheit exceeds the 16 degrees stated in the original design.

7. Limited appearance statements were made on the record by a number of local area residents and officials. Some

procedural and substantive questions were thus raised; they were responded to during the course of the hearing.

8. Proposed findings of fact and conclusions of law have been filed by each party. The Board permitted and encouraged the parties to file responsive pleadings by June 8, 1970. Additionally, on June 4, 1970, the Board requested that the Staff file a supplemental exhibit to clarify the record showing of compliance with the National Environmental Policy Act of 1969 (NEPA). Accordingly, the pleadings and the record now include the Applicant's reply stating objections to certain conclusions proposed by the Department of the Interior, and Staff Exhibit 5-A as admitted in evidence by Board Order dated June 18, 1970.

FINDINGS OF FACT

9. The Applicant is a public utility, incorporated in Florida. It has adequate resources to finance the cost of construction of the proposed facility as an integral part of its total construction program in the ordinary course of business through funds derived from operations and through sale of securities.

10. The application contains a description of the site and the basis for its suitability, a detailed description of the proposed facility, including those reactor systems and features which are essential to safety, an analysis of the safety features provided for in the facility design, and an evaluation of various postulated accidents and hazards involved in the operation of such a facility and the engineered safety features provided to limit their effects. Additional testimony and documentary evidence relative to these matters are included in the hearing record.

Also included in the application is evidence of the technical qualifications of the Applicant, including those of its contractors, to design and construct the facility. The Staff safety evaluation sets forth the consideration given to the important safety features of the proposed facility and the significance assigned to those systems, and features important to the prevention or mitigation of accidents involving possible adverse radiological effects upon the health and safety of the public.

11. The Applicant is gaining experience in the design and construction of nuclear powered generating stations as a result of its participation in the Turkey Point Nuclear Generating Units 3 and 4. Combustion Engineering, Inc., which will design and furnish the nuclear steam supply system and the first core, has had considerable experience in the design, development and construction of reactor systems and components. Ebasco Services, Incorporated, which has had broad experience in the nuclear field, has been retained by the Applicant as its Architect/Engineer and constructor of the facility.

12. The plant site is located on Hutchinson Island, in St. Lucie County on the eastern coast of Florida, about half way between the cities of Fort Pierce and Stuart. The site covers 1,132 acres and has a minimum exclusion area radius of 5,100 feet. The area around the site is largely undeveloped and aquatic. The nearest population center having a population in excess of 25,000 is Fort Pierce, located about 8 miles north of the plant. The plant design will take into account local

hydrological and other special conditions as well as the possibility of earthquakes, floods and severe meteorological conditions such as hurricanes and tornadoes.

13. The design of the plant's major systems and components which bear significantly on the acceptability of the facility at the proposed site under the site criteria guidelines identified in 10 CFR Part 100 of the Commission's regulations have been analyzed and evaluated by the Applicant and the Staff at a core power level of 2700 megawatts (thermal), the ultimate reactor power level expected for the facility.

14. The proposed facility incorporates numerous system components, and features for the protection of plant personnel and the public and is similar in design to some plants incorporating pressurized water reactors which have been previously approved for construction by the Commission. An important safety feature is the containment system which will completely enclose the reactor and major components of the primary coolant system. The containment system will consist of an outer reinforced concrete shield building enclosing an air space inside of which is a cylindrical steel pressure vessel designed to accomodate, without loss of integrity, functional loads resulting from a loss-of-coolant accident occurring simultaneously with the maximum hypothetical earthquake and normal operating loads. Both during reactor operations and in possible accident situations, ventilating air will be exhausted from the entire containment system through particulate and charcoal adsorber filter units to control radioactive releases to the environment.

15. The proposed facility has separate systems designed to provide adequate core cooling and pressure reduction within the containment structure even if a loss-of-coolant accident should occur. For immediate short-term cooling, an emergency core cooling system (ECCS) will inject cool borated water into each of the primary coolant loops and directly into the reactor vessel, thereby limiting energy and fission product releases into the containment. For cooling containment air and to reduce containment vessel internal pressure in the event of an accident, the design includes a spray system for delivering cool borated water into the containment atmosphere, and also a containment fan cooling system with four cooling units and a centrifugal exhaust fan. Either of these systems is designed to meet post-accident containment cooling requirements.

16. The Applicant and the Staff recognize that in order to develop the final design of the facility further information and data will be needed, and will be developed by research and development projects in the course of the final design work for the plant. In addition, some of the basic work in progress is expected to confirm conservatism of the proposed designs. The major areas of research and development include:

- a. Fuel assembly flow tests.
- b. Mechanical testing of control element assemblies.
- c. Performance of control elements drive mechanisms.
- d. Reactor vessel flow investigation program.
- e. In-Core instrumentation.
- f. Effect of fuel rod failure on ECCS performance.

- g. Effects of fuel bundle flow blockage.
- h. Verification of fuel damage limit criterion.
- i. Effects of blowdown forces on primary system components.
- j. ECCS thermal effects on fuel rods.
- k. Verification of the ability of fuel to perform under transient conditions at end-of-life.
- l. ECCS thermal effects on the reactor vessel.
- m. Failed fuel detection.
- n. Hydrogen control.

The objectives of these programs have been defined, and a schedule for the furnishing of information prior to completion of construction of the proposed facility has been established. The record evidence is sufficient to afford reasonable assurance that the research and development projects will be timely completed.

17. The Applicant, Ebasco, and Combustion Engineering have established quality control and assurance programs to achieve facility conformance with design requirements, recognized codes, and good engineering practice. The quality assurance and control programs of the Applicant will be separate from those of its contractors and vendors.

18. The application under review has ripened to this decisional stage in a climate of growing emphasis upon factors, in addition to those radiological, which may affect man's environment. Within the first half of this year: (a) NEPA became

effective; (b) The President's Executive Order 11514 in March established, under NEPA, the Council on Environmental Quality (CEQ); (c) The Water Quality Improvement Act of 1970 (WQIA) became effective in April; (d) Also in April, the Commission amended its rules in response to NEPA requirements; (e) in May the CEQ issued to Federal agencies environmental statement guidelines; and (f) The Commission's policies and procedures under NEPA, WQIA, and CEQ guidelines are undergoing rulemaking proceedings as notified in June. These activities at the Federal level are diversely enmeshed with regulatory programs in the several States, including Florida. In this proceeding the application was filed in January of 1969, was often amended, was notified for hearing in April of 1970, was heard in May, and is now to be decided on that hearing record, as supplemented in June, in accordance with the above cited laws and policies and, basically, pursuant to the Administrative Procedure Act and the Atomic Energy Act.

19. The Board has considered the parties' proposed findings and conclusions upon environmental considerations, apart from radiological effects. The findings proposed are consistent with the evidence, but more needs to be stated. On the day before the prehearing conference the Applicant filed Amendment 9 which significantly changed the foreseeable effects upon the aquatic environment of the proposed plant's construction and operation. The foreseeability of those effects is quite limited both because the water-using structures, locations, and design

characteristics are unknown, and because the ecological consequences of whatever water-use system may be evolved can be ascertained only through studies that are yet to be made. These circumstances warrant discussion of the facts hereinafter found.

20. At all times prior to the last day of the hearing the Applicant contended for a literal interpretation of the Notice of Hearing and its stated issues so as to place the consideration of non-radiological environmental factors outside the jurisdiction of the Board. Upon this point the Applicant's position changed, procedurally and substantively, as the second day of hearing began. Consequently, the record evidence--all of which was received without any objection--includes testimony and exhibits concerned directly with the projected plant's possible impact upon the environment.

21. In July of 1968, the Applicant and the College of Engineering of the University of Florida entered into a contract for a study to evaluate hydrographic effects of the facility as then proposed. In evidence now is a post-hearing exhibit, filed by the Applicant at the Board's request, consisting of an intermediate report, dated May 26, 1970, of measured ocean current data, gathered during the past 18 months, pertaining to temperature field predictions. Among the assumptions underlying that study are a water temperature rise of 25 degrees Fahrenheit and an outlet point 800 feet from the shore. The report suggests, and the Board construes as a present design requirement, that the discharged water will undergo a 50% dilution--and a

consequent temperature decrease--in moving from its exit point to the surface. However, design of the ocean installations and their locations will not be commenced until about six months from now, when the results of a recently undertaken scale model study of the hydrography are expected. This record lacks evidence to support a meaningful evaluation of the environmental impact of the plant's condenser cooling water system. The general design criteria and performance requirements for such a cooling system are described adequately to afford reasonable assurance against radiological hazards.

22. The ocean shore of Hutchinson Island, including two miles of beachfront on the Applicant's site, is used heavily by several species of migratory sea turtles, including the loggerhead and rare green turtle. These turtles gather offshore in large numbers before coming ashore to nest several times during the summer. Expert witnesses for the Department of the Interior believe that the proposed plant's heated water discharges to the ocean could have serious adverse effects on the nesting habits of the sea turtles. Nevertheless, all parties are in agreement that heated water effluent effects on surrounding marine and terrestrial life can become known only in the light of additional facts concerning plant design and operation, and only in relation to the results of future environmental studies.

23. The Staff's evidence includes as Exhibit 5 a Statement on Environmental Considerations, and a post-hearing

Exhibit 5-A signed by Daniel R. Muller as the Commission's responsible official within the meaning of the National Environmental Policy Act of 1969, (NEPA). Exhibit 5-A was submitted in response to a Board request initiated because, during its review, the Board deemed it proper for the record to show formal compliance with the Commission's policy calling for a NEPA statement by "the Director of Regulation or his designee." (10 CFR 50, App. D, Par. 2, 35 F.R. 5463). The signed exhibit states that Exhibit 5 was prepared under the supervision of Mr. Muller as the designee of the Director of Regulation. The principal witness for the Staff was Mr. Muller who is Chief of Pressurized Water Reactor Projects Branch No. 1 in the Division of Reactor Licensing. It is relevant here to notice that on June 11, 1970 the Federal Register published (35 Fed. Reg. 9042), over the signature of Peter A. Morris as Director of the Division of Reactor Licensing, a notice pursuant to NEPA and 10 CFR 50 that the environmental statement, which is Exhibit 5 here, is publicly available at stated locations. The Board finds that the record contains sufficient information to show technical compliance with Section 102(C) of NEPA and with Appendix D of 10 CFR 50. The record includes proposed construction permit conditions which, as discussed and derived hereinafter, achieve substantive compliance with the applicable laws and policies aimed at protecting man's environment.

CONCLUSIONS

24. The Board's concern about the legal sufficiency of Staff Exhibit 5 arose from an awareness of the several mandates of NEPA that encompass agency decision-making which may have an impact on man's environment. The Commission's existing and proposed rules do not yet clearly delineate the role of the Atomic Safety and Licensing Boards--the Commission's ears and eyes and voice for publicly hearing and initially deciding upon the licensing of nuclear power plants--in considering those environmental factors which are newly added to the Commission's jurisdiction. It is now abundantly clear that the license here sought can be issued only in compliance with the applicable provisions of NEPA and WQIA. The Board concludes that the Commission has expressly delegated to the Director of Regulation or his designee the primary responsibility for meeting the special duties assessed to the Commission by NEPA; and, in proposed rules, WQIA and CEQ requirements may be met in a like manner. It follows that in this proceeding the Board does not assume or accept the role of the Commission's responsible official, under NEPA, for effectuating the new laws' mandates for environmental impact evaluations and safeguards. The Board has appraised this record as a product of "proceedings which take place in the immediate and near future" for which provisions of tolerance are expressed in the Commission's Policy Statements.

25. This record affords very little of the environmental impact information which applicants may be required to furnish in later proceedings. The Staff's safety evaluation and its requests for comments by other agencies preceded the effectiveness of NEPA and WQIA, and thus were limited to radiological matters. The intervenor's evidence pointed with uncertainty toward possible adverse non-radiological effects. The Staff's environmental statement includes itemized but unsupported references to considerations enumerated in NEPA. Notwithstanding these scanty responses to NEPA and WQIA, fairly attributable to the recency of those laws, the Board proceeds to an affirmative decision herein which is deemed to "be consistent with the public interest in avoiding unreasonable delay in meeting the growing national need for electric power" as proclaimed in the Commission's April and June Policy Statements.

26. All parties are in agreement that the policy and legal requirements under the new laws can and should be fulfilled, for the purposes of this adjudication, by including in the construction permit an appropriate condition, or conditions, to preclude breaches of the environmental protection now required. The Board has concluded that a construction permit so conditionally granted is authorized by law and, upon the basis of this record, should be authorized by the Board's decision. However, there is not agreement among the parties concerning the condition or conditions to be deemed appropriate. Hence, the

issue is for determination by the Board.

27. The record includes a variety of proposed construction permit conditions, none of which is accepted by the Board. The intervenor would specify, among other requirements, that Applicant conduct certain studies and adjust its activities in terms of the results thereof. That condition is not necessary because: (a) the Applicant has made binding commitments on the hearing record to evolve its designs for construction and operation of the plant in the light of its studies to be made of environmental effects, and to coordinate such studies and design efforts with cognizant Federal and State officials; (b) the construction permit to be issued authorizes the Applicant to construct a facility "as more fully described in the evidence received at the public hearing", and not otherwise; (c) that construction permit, not some variation of it, is to be issued pursuant to the order of this Board; and (d) the construction permit is subject to all applicable provisions of the rules, regulations and orders of the Commission now or hereinafter in effect.

28. The Applicant's answer to a petition to intervene advanced and consented to three construction permit conditions which, at the hearing, were declared to be acceptable by the respective attorneys for each party and the State of Florida. However, Applicant and Staff now propose one condition which substantially repeats the phrasing of paragraph 10 of the Commission's proposed revision of Appendix D to 10 CFR 50.

Staff Exhibit 7 would add that condition as a new and last paragraph in the proposed construction permit. Upon the basis explained below the Board has concluded that a modified condition should be specified, and that it should be set out in that part of the construction permit which states other conditions, i.e., in paragraph 2 of the license.

29. The Board's deliberations upon the condition to be deemed appropriate have carefully weighed the laws and policies applicable to this proceeding, and the proposals and contentions of the parties. To state directly what has been forecast earlier, it is concluded that this licensing proceeding is subject to various provisions of NEPA and WQIA. Likewise, the Commission's rules, including Appendix D to 10 CFR 50, are applicable. The proposed revision of Appendix D is not now in effect; changes may occur in the rulemaking process. The Board declines to adopt the condition as proposed by Applicant and Staff because it is concluded that a shorter and simpler statement can state with adequate force and clarity the measure of performance which the laws require the Commission to exact of its licensees whose facilities may adversely affect the environment.

30. The construction permit issued under authority of the Atomic Energy Act is an indispensable and meaningful license. It specifies what the licensee is permitted to do, and it explicitly and by reference identifies forbidden actions by the grantee. The license is a creature of the Atomic Energy Act

molded heretofore to embrace the requirements of that Act and thus primarily to achieve the maximum practicable assurance that radiological effects will not adversely affect public health and safety. Now the construction permit becomes also an instrument to aid in safeguarding additional environmental values. In this proceeding and at this time, the Board deems it needlessly venturesome to undertake a detailing of particular provisions of the new laws which should appear in the construction permit conditions; by the same token particularization of laws deemed inapplicable seems unwarranted. The Board concludes that the construction permit should include as a condition in paragraph 2D this provision:

In the construction and operation of the facility, Florida Power and Light Company shall observe such standards and requirements for the protection of the environment as are validly imposed under Federal and State laws.

The Board believes the above condition states all that needs to be stated, and that to state more might obscure what is said and thus say less than the laws intend. Accordingly, the form and content of the construction permit authorized by this initial decision is set forth in Attachment A which is here incorporated by reference.

31. In summary of its consideration of non-radiological environmental factors, the Board concludes that the granting of this construction permit is consistent with currently applicable laws and policies. The Board's action manifests, and this decision expresses, an expectation that the Hutchinson Island nuclear plant will be accorded further and later review in conformity with the CEQ guidelines which, in paragraph 11, direct that "To the fullest extent possible" subsequent major action--e.g., at the operating license stage--will take "account of environmental consequences not fully evaluated at the outset of the project."

32. The activities to be conducted under the construction permit will be within the jurisdiction of the United States, and all of the directors and principal officers of the Applicant are United States citizens. The Applicant is not owned, controlled or dominated by an alien, foreign corporation or a foreign government. The activities to be conducted do not involve any restricted data, but the Applicant has agreed to safeguard any such data which might become involved in accordance with 10 CFR 50.33 (j). Special nuclear material for use as fuel in the proposed facility will be subject to Commission regulations and will be obtained from sources of supply so that there will be no diversion of such material. There are no unresolved safety questions pertinent to the issuance of the construction permit.

33. The Commission's rules, and the Notice of Hearing in this proceeding, declare the function of the Board in a "contested proceeding" to be to consider and initially decide specified issues as a basis for determining whether a construction permit should be issued. Measured by the definition in 10 CFR 2.4, this is a contested proceeding. Nevertheless, the issues as specified are not here contested, and do not require explicit resolution in this decisional process. The controversy among the parties involves only the environmental considerations which have been determined above. In all other respects this is not a contested proceeding, and thus is to be decided upon the basis of the ultimate conclusions which follow from the findings and discussions hereinabove set out. The Board concludes that, except for the matter of non-radiological effects upon the environment, the application and the record of the proceeding contain sufficient information, and the review by the Commission's regulatory staff has been adequate, to support the findings proposed to be made by the Director of Regulation; the application and the record support the issuance of a construction permit substantially as proposed, but with an added environmental effects condition as specified in paragraph 2-D of Attachment A.

Order

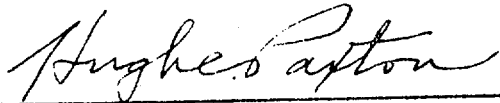
34. Pursuant to the Act and the Commission's regulations, IT IS ORDERED this 30th day of June, 1970, that the Director of Regulation issue a construction permit to the Florida Power

and Light Company substantially in the form of Attachment A to this Initial Decision. IT IS FURTHER ORDERED, in accordance with 10 CFR 2.760, 2.762, 2.764, 2.785 and 2.786 of the Commission's Rules of Practice, that this Initial Decision shall be effective immediately and upon issuance shall constitute the final decision of the Commission following the review thereof pursuant to the above cited rules.

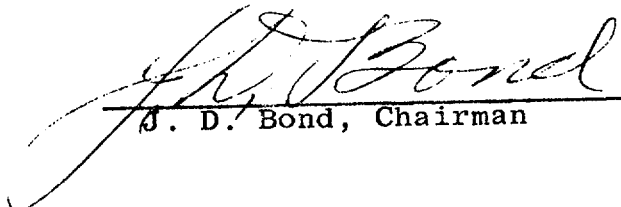
ATOMIC SAFETY AND LICENSING BOARD



Clark Goodman



Hugh C. Paxton



J. D. Bond, Chairman

Issued:
June 30, 1970
Washington, D. C.

Attachment "A" to Initial Decision, dated June 30, 1970.

FLORIDA POWER AND LIGHT COMPANY
(Hutchinson Island Nuclear Power Plant)

DOCKET NO. 50-335

CONSTRUCTION PERMIT

Construction Permit No. _____

1. Pursuant to § 104 b. of the Atomic Energy Act of 1954, as amended (the Act), and Title 10, Chapter 1, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and pursuant to the order of the Atomic Safety and Licensing Board, the Atomic Energy Commission (the Commission) hereby issues a construction permit to the Florida Power and Light Company (the applicant) for a utilization facility (the facility), designed to operate at 2440 megawatts (thermal) described in the application and amendments thereto (the application) filed in this matter by the applicant and as more fully described in the evidence received at the public hearing upon that application. The facility, known as Hutchinson Island Nuclear Power Plant will be located at the applicant's site on the East Coast of Florida on Hutchinson Island in St. Lucie County halfway between Fort Pierce and Stuart, Florida.

2. This permit shall be deemed to contain and be subject to the conditions specified in §§ 50.54 and 50.55 of said regulations; is subject to all applicable provisions of the Act, and rules, regulations and orders of the Commission now or hereafter in effect; and is subject to the conditions specified or incorporated below:

- A. The earliest date for the completion of the facility is January 1, 1973, and the latest date for completion of the facility is January 1, 1974.
- B. The facility shall be constructed and located at the site as described in the application in St. Lucie County, Florida.
- C. This construction permit authorizes the applicant to construct the facility described in the application and the hearing record in accordance with the principal architectural and engineering criteria set forth therein.
- D. In the construction and operation of the facility, Florida Power and Light Company shall observe such standards and requirements for the protection of the environment as are validly imposed under Federal and State Laws.

3. This permit is subject to the limitation that a license authorizing operation of the facility will not be issued by the Commission unless (a) the applicant submits to the Commission, by amendment to the application, the complete final safety analysis report, portions of which may be submitted and evaluated from time to time; (b) the Commission finds that the final design provides reasonable assurance that the health and safety of the public will not be endangered by the operation of the facility in accordance with procedures approved by it in connection with the issuance of said license; and (c) the applicant submits proof of financial protection and the execution of an indemnity agreement as required in § 170 of the Act.

FOR THE ATOMIC ENERGY COMMISSION
