



Florida Power & Light Company, 6501 S. Ocean Drive, Jensen Beach, FL 34957

January 22, 2008

L-2008-009
10 CFR 50.36.b
EPP 3.2.3

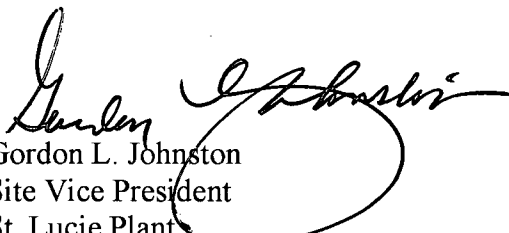
U. S. Nuclear Regulatory Commission
Attn: Document Control Desk
Washington, DC 20555

RE: St. Lucie Units 1 and 2
Docket Nos. 50-335 and 50-389
Environmental Protection Plan Report
Minor Revision to Industrial Wastewater Facility Permit

The attached minor revision to the Industrial Wastewater Facility Permit is being submitted pursuant to the requirements of Section 3.2.3 of the St. Lucie Units 1 and 2 Environmental Protection Plans. The revision was approved on December 26, 2007.

Please contact Ken Frehafer at (772) 467-7748 if there are any questions on this matter.

Very truly yours,


Gordon L. Johnston
Site Vice President
St. Lucie Plant

GLJ/KWF

Attachment



Florida Department of Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

December 26, 2007

BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William Jefferson, Jr.
Vice President
Florida Power & Light Company
6501 S. Ocean Drive
Jensen Beach, Florida 34957

Re: Florida Power & Light Company
St. Lucie Power Plant
NPDES Permit No. FL0002208
Finding of Cause to Reopen 316(b) Phase II Permit Condition

Dear Mr. Jefferson:

On October 3, Florida Power & Light Company submitted a request to the Department of Environmental Protection (Department) to review, and revise as necessary, permit conditions associated with the Clean Water Act (CWA) 316(b) Phase II rule provisions. The purpose of this letter is to notify you of the Department's finding, pursuant to our authority in Rule 62-620.325(2)(a), Florida Administrative Code (F.A.C.), that cause exists to reopen the referenced NPDES wastewater discharge permit.

In response to a rule challenge, the federal appellate court struck down the majority of the CWA 316(b) Phase II rule provisions for existing power plants in January 2007. On July 9, 2007, the United States Environmental Protection Agency (EPA) suspended the parts of the rule affected by the court decision [see Federal Register Volume 72, Number 130, Page 37107]. This suspension provides a clear statement by EPA that the existing Phase II requirements (with the exception of one provision unaffected by the court decision that reaches beyond the Phase II rule), are suspended and are not legally applicable. In November 2007, the Department amended Rule 62-620.100(3), Florida Administrative Code (F.A.C.), to mirror the EPA rule suspension and adopt by reference 40 CFR 125.90(b), allowing for the implementation of Section 316(b) of the CWA on a Best Professional Judgment (BPJ) basis. Thus, determination of Best Technology Available (BTA) compliance with Section 316(b) of the CWA for existing power plants shall continue to be based on BPJ under authority of Rules 62-620.100, F.A.C.

Because of the events set forth above, the Department has determined that the requirement in the suspended Phase II rule for submittal of biological and engineering reports on January 7, 2008 is no longer applicable. Therefore, the Department has revised the submittal requirements in permit condition VI.3 for a biological and engineering report to evaluate compliance with BTA on a BPJ basis at the time of permit renewal. This letter and accompanying revised permit pages must be attached to the original permit.

Even though publishing a notice within 10 days of receipt of this letter in a daily newspaper with the largest circulation within the area of the facility is not required for this minor permit revision, Florida Power and Light Company may voluntarily elect to do so at their expense.

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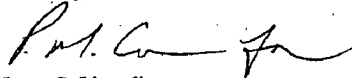
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Permit FL0002208

The permit is revised as stated in the attached permit page unless a timely, sufficient petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes is filed as set forth in the attached "Notice of Rights." If you have any questions regarding this permit revision, please contact Marc Harris, P.E., in the Industrial Wastewater Section at (850) 245-8589.

Sincerely,



Janet G. Llewellyn
Director
Division of Water Resource Management

JGL/wfr/mh
Attachments

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FILING AND ACKNOWLEDGMENT

FILED, on this date, under Section 120.52, Florida Statutes, with the designated deputy clerk, receipt of which is hereby acknowledged.

Cynthia Doyle 12/27/07
Clerk Date

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this permit revision and all copies were mailed before the close of business to the listed persons.

Marc Harris
Name

12/27/07
Date

Copies furnished by certified mail to:
Ron Hix, FP&L Juno Beach

Copies furnished by intradepartmental mail to:
Tim Powell, P.E., DEP Southeast District
Mike Halpin, P.E., DEP Office of Siting Coordination
Justin Wolfe, Esq., DEP OGC

NOTICE OF RIGHTS

The Department's proposed agency action shall become final unless a timely petition for an administrative hearing is filed under Sections 120.569 and 120.57, Florida Statutes, within fourteen days of receipt of notice. The procedures for petitioning for a hearing are set forth below.

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57, Florida Statutes. The petition must contain the information set forth below and must be filed (received by the clerk) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000.

Under Rule 62-110.106(4), Florida Administrative Code, a person may request enlargement of the time for filing a petition for an administrative hearing. The request must be filed (received by the clerk) in the Office of General Counsel before the end of the time period for filing a petition for an administrative hearing.

Petitions by the applicant or any of the persons listed below must be filed within fourteen days of receipt of this written notice. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3), Florida Statutes, must be filed within fourteen days of publication of the notice or within fourteen days of receipt of the written notice, whichever occurs first. Under Section 120.60(3), Florida Statutes, however, any person who has asked the Department for notice of agency action may file a petition within fourteen days of receipt of such notice, regardless of the date of publication.

The petitioner shall 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 fourteen days of receipt of notice shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57, Florida Statutes. Any subsequent intervention (in a proceeding initiated by another party) will be only at the discretion of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205, Florida Administrative Code.

A petition that disputes the material facts on which the Department's action is based must 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 Department permit 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;
- (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate;
- (e) A statement of facts that the petitioner contends warrant reversal or modification of the Department action;
- (f) A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief, including an explanation of how the alleged facts relate to the specific rules or statutes; 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's final action may be different from the position taken by it in this notice. Persons whose substantial interests will be affected by any such final decision of the Department have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

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Mediation under Section 120.573, Florida Statutes, is not available for this proceeding.

This permit 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 permit will not be effective until further order of the Department.

Any party to the permit has the right to seek judicial review of the permit action under Section 120.68, Florida Statutes, by the filing of a notice of appeal under Rules 9.110 and 9.190, 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 30 days from the date when this permit action is filed with the clerk of the Department.

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PERMITTEE: PERMIT NUMBER: FL0002208 (Rev. D)

FPL - St. Lucie Power Plant Issuance date: December 9, 2005
 6451 S. Ocean Dr. Expiration date: December 8, 2010
 Jensen Beach, FL34957

Additions to the permit are identified by italics and underline. Deletions are identified by strikethrough.

- f. Copies of the logs and schedules showing plant operations and equipment maintenance for three years from the date on the logs or schedule.

VI. Schedules

- 1. A Best Management Practices Pollution Prevention (BMP3) Plan shall be prepared and implemented in accordance with Part VII of this permit and the following schedule:

Action Item		Scheduled Completion Date
1	Continue Implementing Existing BMP3 Plan	Issuance Date of Permit

- 2. The Permittee shall achieve compliance with the other conditions of this permit as follows:

Operational level attained Issuance Date of permit

- 3. ~~The Permittee shall comply with the requirements of 40 CFR Part 125.95(a)(1) and (2) no later January 7, 2008. In accordance with Section 316(b) of the Clean Water Act and Rule 62-620.100(3)(z), F.A.C., the Permittee shall evaluate the potential for adverse environmental impact from cooling water intake structures to determine if new, modified or additional equipment or procedures are needed. The results of the evaluation shall be compiled into a report. The report shall include the biological data collected consistent with that described in the submitted Proposal for Information Collection for this facility. The Permittee shall submit three copies of the report to the Department with a timely renewal application for this permit at the address specified below:~~

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

- 4. The Permittee shall conduct an evaluation to verify the need to continue the thermal mixing zone for Outfall D-001 and the appropriateness of the mixing zone dimensions with the timely submittal of a permit renewal application.

VII. Other Specific Conditions

A. Specific Conditions Applicable to All Permits

- 1. Drawings, plans, documents or specifications submitted by the Permittee, not attached hereto, but retained on file at the Southeast District Office, are made a part hereof.
- 2. Where required by Chapter 471 (P.E.) or Chapter 492 (P.G.) Florida Statutes, applicable portions of reports to be submitted under this permit, shall be signed and sealed by the professional(s) who prepared them.
- 3. This permit satisfies Industrial Wastewater program permitting requirements only and does not authorize operation of this facility prior to obtaining any other permits required by local, state or federal agencies.

B. Specific Conditions Related to Construction

This section is not applicable to this facility.

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PERMITTEE: FPL - St. Lucie Power Plant
6451 S. Ocean Dr.
Jensen Beach, FL34957

PERMIT NUMBER: FL0002208 (Rev. D)

Issuance date: December 9, 2005
Expiration date: December 8, 2010

Additions to the permit are identified by italics and underline. Deletions are identified by strikethrough.

2. The permit may be reopened to adjust effluent limitations or monitoring requirements should future Water Quality Based Effluent Limitation determinations, water quality studies, DEP approved changes in water quality standards, or other information show a need for a different limitation or monitoring requirement.
3. The Department may develop a Total Maximum Daily Load (TMDL) during the life of the permit. Once a TMDL has been established and adopted by rule, the Department shall revise this permit to incorporate the final findings of the TMDL.
4. *The permit shall be reopened for revision as appropriate to comply with requirements of new regulations, standards, or judicial decisions relating to CWA 316(b).*

VIII. General Conditions

1. The terms, conditions, requirements, limitations and restrictions set forth in this permit are binding and enforceable pursuant to Chapter 403, F.S. Any permit noncompliance constitutes a violation of Chapter 403, F.S., and is grounds for enforcement action, permit termination, permit revocation and reissuance, or permit revision. *[62-620.610(1), F.A.C.]*
2. This permit is valid only for the specific processes and operations applied for and indicated in the approved drawings or exhibits. Any unauthorized deviation from the approved drawings, exhibits, specifications or conditions of this permit constitutes grounds for revocation and enforcement action by the Department. *[62-620.610(2), F.A.C.]*
3. As provided in Subsection 403.087(6), F.S., the issuance of this permit does not convey any vested rights or any exclusive privileges. Neither does it authorize any injury to public or private property or any invasion of personal rights, nor authorize any infringements of federal, state, or local laws or regulations. This permit is not a waiver of or approval of any other Department permit or authorization that may be required for other aspects of the total project which are not addressed in this permit. *[62-620.610(3), F.A.C.]*
4. This permit conveys no title to land or water, does not constitute state recognition or acknowledgment of title, and does not constitute authority for the use of submerged lands unless herein provided and the necessary title or leasehold interests have been obtained from the State. Only the Trustees of the Internal Improvement Trust Fund may express State opinion as to title. *[62-620.610(4), F.A.C.]*
5. This permit does not relieve the Permittee from liability and penalties for harm or injury to human health or welfare, animal or plant life, or property caused by the construction or operation of this permitted source; nor does it allow the Permittee to cause pollution in contravention of Florida Statutes and Department rules, unless specifically authorized by an order from the Department. The Permittee shall take all reasonable steps to minimize or prevent any discharge, reuse of reclaimed water, or residuals use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment. It shall not be a defense for a Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. *[62-620.610(5), F.A.C.]*
6. If the Permittee wishes to continue an activity regulated by this permit after its expiration date, the Permittee shall apply for and obtain a new permit. *[62-620.610(6), F.A.C.]*
7. The Permittee shall at all times properly operate and maintain the facility and systems of treatment and control, and related appurtenances, that are installed and used by the Permittee to achieve compliance with the conditions of this permit. This provision includes the operation of backup or auxiliary facilities or similar systems when necessary to maintain or achieve compliance with the conditions of the permit. *[62-620.610(7), F.A.C.]*
8. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the Permittee for a permit revision, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. *[62-620.610(8), F.A.C.]*

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

2600 BLAIR STONE ROAD
TALLAHASSEE, FLORIDA 32399-2400

STATEMENT OF BASIS FOR PERMIT REVISION

Permit Number: FL0002208
Permit Writer: Marc Harris

1. SYNOPSIS OF APPLICATION

A. Name and Address of Applicant:

Florida Power & Light Company
6501 S. Ocean Drive
Jensen Beach, Florida 34957

For:

St. Lucie Power Plant
Units 1 & 2
Hutchinson Island

B. Description of Proposed Activity:

Section 316(b) of the Clean Water Act (CWA) requires that the location, design, construction, and capacity of cooling water intake structures (CWIS) reflect the best technology available (BTA) to protect aquatic organisms from physical, thermal, or chemical stresses from impingement (pinned against intake screens) or entrainment (drawn completely through cooling water systems from intake to discharge).

EPA published rules for existing large steam electric power plants that use surface waters in their cooling systems on July 9, 2004. DEP adopted the EPA rules in entirety by reference and has added CWIS compliance schedules based on the rule into power plant NPDES permits as they have been renewed.

The July 2004 EPA rule essentially required that CWIS impacts at existing power plants cannot be greater than the impacts from recirculating cooling water systems such as cooling towers, and provided alternatives for achieving compliance. The rule required Permittees to submit a detailed biological study plan to evaluate CWIS impacts, conduct biological monitoring as described in the study plan, identify appropriate compliance measures, then design and implement the compliance measures.

In response to a rule challenge, the federal appellate court struck down the majority of the rule provisions for existing power plants in January 2007. On July 9, 2007, EPA suspended the parts of the rule affected by the court decision [see Federal register Volume 72 FR Page 37107]. This suspension provides a clear statement by EPA that the existing Phase II

requirements (with the exception of one provision unaffected by the court decision that reaches beyond the Phase II rule), are suspended and are not legally applicable. In November 2007, the Department amended Rule 62-620.100(3)(z), Florida Administrative Code (F.A.C.), to mirror the EPA rule suspension and adopt by reference 40 CFR 125.90(b), allowing for the implementation of 316(b) of the Clean Water Act on a Best Professional Judgment (BPJ) basis. Thus, determination of BTA compliance with Section 316(b) CWA for existing power plants shall continue to be based on BPJ under authority of Rules 62-620.100, F.A.C.

C. Compliance Schedule:

In addition, the Phase II rule required power plants to meet submittal requirements no later than January 7, 2008 for existing permits that expire before July 9, 2008. Because the Phase II rule is suspended, the date to submit application requirements for facilities with cooling water intake structures that was contained in Rule 62-620.100(3)(aa), F.A.C., and all completed biological studies conducted to comply with the Phase II rule has been revised in the permit from January 7, 2008 to time of permit renewal.