

EXHIBIT 10



Florida Department of Environmental Protection

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TO: Toni Sturtevant, OGC

THROUGH: Mike Halpin, Siting Coordination Office Administrator

FROM: Cindy Mulkey, SCO

DATE: January 13, 2010

SUBJECT: FPL Turkey Point 6 & 7 Second Completeness Determination (Plant)

Pursuant to § 403.5252, Florida Statutes, the Department of Environmental Protection (DEP) after consulting with the affected agencies has determined that the portion of the Florida Power & Light (FPL) Turkey Point Units 6 & 7 Nuclear Plant site certification application (SCA) concerning the plant and associated facilities other than the transmission lines is not complete.

On August 10, 2009, DEP filed its first Completeness Determination finding the FPL Turkey Point 6 & 7 SCA incomplete for the plant portion of the application. FPL submitted responses to agency completeness questions on October 9, 2009. The deadlines for agencies to submit completeness questions/comments regarding FPL's response and for DEP to file a second completeness determination have been extended by stipulation to January 6, 2010 and January 13, 2010 respectively.

As a means of satisfying some of the items herein, the applicant should identify (where appropriate) those items which it believes are properly suited for review and approval via post-certification submittals, and recommend related conditions of certification.

The following items represent requests for additional or clarifying information and comments from the DEP Siting Coordination (SCO), the DEP Southeast District (SED) Office, and the DEP Office of Coastal and Aquatic Managed Areas (CAMA). Note that the numbering system utilized in the first completeness determination by DEP (and FPL's response) is being carried forward in this filing where possible. Questions for which a satisfactory answer has been received and for which there are no further comments have been omitted.

I. DEP SED WATERSHED MANAGEMENT AND PLANNING

C. Radial Collector Wells

FDEP-I-C-4: Concerns still remain regarding unknowns related to the Radial Collector Well System including, but not limited to: possible impacts to the Bay including seabeds, seagrasses and salinity; and reliability of the well system. This remains an issue which will require further review and discussion.

II. DEP SED ENVIRONMENTAL RESOURCE PERMITTING**A. Drainage/Engineering**

FDEP-II-A-1: As a proposed post-certification requirement prior to construction, it will be necessary for FPL to demonstrate that all runoff from Units 6 & 7 and associated impervious areas will be directed to and contained within the industrial wastewater facility (Cooling Canal System).

FDEP-II-A-5: As a proposed post-certification requirement prior to construction, it will be necessary for FPL to demonstrate compliance with Section 5.6 of the Basis of Review for the fill source as follows: (a) Entrapped salt water, resulting from inland migration of salt water or penetration of the freshwater/salt water interface, will not adversely impact existing legal water users; (b) Excavation of the water body shall not penetrate a water-bearing formation exhibiting poorer water quality for example., in terms of chloride concentrations (BOR, SFWMD).

FDEP-II-A-7: As a proposed post-certification requirement prior to construction, FPL will be asked to submit paving, grading and drainage plans for all of the proposed elements of the project including the plant facilities, roadways, transmission lines, reclaimed water facility and excavation sites. This will also include stormwater calculations for all of the different project areas including a complete acreage breakdown of total area, building area, preserve/pervious area, parking/roadway area and other impervious coverage as well as sufficient site grading details which support the grading assumptions in Tables 24 & 25 of Appendix 10.8.

FDEP-II-A-8: As a proposed post-certification requirement prior to construction, FPL will be asked to provide stormwater management calculations and construction quality plans that show all the best management practice being used as part of the drainage design for the proposed construction (oil water separators, swales etc.). This will include stormwater management and details of how the runoff from the potentially oil contaminated areas will be routed to the oil/water separators prior to discharge into the industrial waste water site or the cooling water reservoir (Appendix 10.8). FPL will need to be able to identify and explain how stormwater runoff is handled from areas such as chemical storage, waste storage, backwash basin sludge processing and to demonstrate that runoff from these areas will not adversely impact ground water or surface water. A similar table to Table A-2, Attachment A of Appendix 10.8 should be prepared and submitted for Unit 6&7.

FDEP-II-A-10: Identification of potential culvert locations and the design of these culverts are necessary to evaluate potential hydrology impacts as well as direct and secondary wetland impacts associated with project development. As a proposed post-certification requirement prior to construction, it will be necessary for FPL to identify potential culvert locations and the design of these culverts in order for DEP to evaluate

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potential hydrology impacts as well as direct and secondary wetland impacts associated with project development.

FDEP-II-A-12: As a proposed post-certification requirement prior to excavation, FPL will be required to perform an appropriate environmental site investigation for the fill area. In the event any potential waste disposal areas and/or contaminated soils are identified during the site investigation or encountered during construction activities, FPL will be required to notify and will coordinate closely with FDEP and DERM for a specific plan for handling of any such material. There may be additional specific requirements conditioned for this part of the project.

FDEP-II-A-20: As a proposed post-certification requirement, FPL will be asked to identify the entity willing to assume management and operation responsibilities for the water management feature created once the fill has been removed from the fill source, including a post mining operational plan. The operational plan will need to include all details regarding sizing and operation of the pump to withdraw water from the C-103 Canal as well as protocols for when water withdrawals would be authorized based on hydrologic conditions. Documentation will also be required to address any potential groundwater and hydrologic impacts in the upstream reach of the C-103 Canal as a result of the proposed diversion of water from the C-103 into the FPL-owned fill source area.

FDEP-II-A-36: As a proposed post-certification requirement prior to construction, FPL will be asked to provide all the required drainage calculations, paving, grading and drainage plans for all portions of the roadway improvements and for the new proposed roadways and bridges that demonstrate that the existing and proposed roads will not have an impact on the existing drainage patterns in the area.

FDEP-II-A-54a: FPL states that the project can be designed to divert water from the C-103 canal into the FPL-owned fill source area. As a proposed post-certification requirement prior to construction, FPL will be asked to provide the operational plan and protocol and demonstrate that water will be available to support this proposal without adversely impacting any upstream or downstream areas. Coordination with the SFWMD regarding this proposal and water availability is expected.

FDEP-II-A-54c: The proposal to prevent saltwater intrusion requires the ability to pump water from the C-103. As a proposed post-certification requirement prior to construction, FPL will be asked to provide reassurance from the SFWMD regarding the perpetual availability of surplus water during all times of the year (with emphasis on the dry season).

III. DEP SED WASTEWATER SECTION**Comments**

- FPL should consider re-routing the various existing industrial waste streams (not including once-thru cooling water as the volume is too great) to the new proposed deep injection wells, thereby minimizing contaminants in such waste streams from impacting Ground Water.
- The proposal to use radial collector wells as a cooling water source backup to reclaimed water could be detrimental to CERP objectives of restoring more fresh water flow to Biscayne Bay. The Ground Water modeling appears to be incomplete or inappropriate based on comments by SFWMD personnel and DEP hydrogeologists, therefore further study is needed for acceptance of the radial well technology.

IV. DEP SED GROUND WATER AND UIC COMMENTS

FDEP-IV-2: No FPL Response. No discharges to the CCS shall be made due to the construction for Units 6 and 7 without an approved monitoring plan for ground waters and surface waters as well as the ecology of adjacent Biscayne Bay.

FDEP-IV-3: No FPL Response. It was stated in the Department's comment that the rock mine would have the potential to bifurcate the CCS plume. Therefore, no dewatering activities shall occur at the mine without an approved Departmental review. As a proposed post-certification requirement prior to construction, FPL will be asked to provide all a proposed dewatering plan which shall include, at a minimum, reasonable assurances that the CCS plume will not be bifurcated as well as a ground water monitoring plan.

V. DEP SED WASTE CLEANUP/HAZARDOUS WASTE

No Additional questions/comments.

VI. DEP OFFICE OF COASTAL AND AQUATIC MANAGED AREAS (CAMA)

Part of the proposed project is located within the boundaries of Biscayne Bay Aquatic Preserve, as described in Chapter 258.397 Florida Statute (F.S.) and Chapter 18-18 Florida Administrative Code (F.A.C.) and is located in Miami-Dade County.

The Biscayne Bay Aquatic Preserve (BBAP) was established to preserve Biscayne Bay in an essentially natural condition so that its biological and aesthetic values may endure for the enjoyment of future generations. Preservation and promotion of seagrass habitat is specifically named in the 'Intent' of the Biscayne Bay Aquatic Preserve Rule, Paragraph 18-18.001(f), F.A.C. Furthermore, it was the intent of the Legislature upon designating and establishing Biscayne Bay an aquatic preserve, including Card Sound, "...that Biscayne Bay be preserved in an essentially natural condition so that its

biological and aesthetic values may endure for the enjoyment of future generations” Chapter 258.397, F.S.

The project is located in the waters of the BBAP, which is a Class III Outstanding Florida Waters, pursuant to Rule 62-302.700(9)(h)5 & 6. This rule states, “It shall be the Department [of Environmental Protection] policy to afford the highest protection to Outstanding Florida Waters and Outstanding National Resource Waters.” It defines this as “no degradation of water quality.”

BBAP staff has identified several areas of the FPL Site Certification Application that lack sufficient data and/or pertinent information to substantiate claims that there will be little or no adverse impacts to the BBAP, thereby prohibiting any further evaluation of the proposed activities until such information can be obtained. In reviewing the Site Certification Application for completeness, staff cited authority in Chapter 18-18 F.A.C. and 258.397 F.S. that established the Biscayne Bay Aquatic Preserve, Chapter 18-21 F.A.C. that rules Sovereignty Submerged Lands Management as well as the Outstanding Florida Water designation pursuant to rule 62-302.700(9)(h) 5 and 6. Staff also employed Environmental Control 403.509(3)(e) and (f) F.S. which states that “...In determining whether an application should be approved in whole, approved with modifications or conditions, or denied, the board, or secretary when applicable, shall consider whether, and the extent to which, the location, construction, and operation of the electrical power plant will...(e) Effect a reasonable balance between the need for the facility as established pursuant to s. 403.519 and the impacts upon air and water quality, fish and wildlife, water resources, and other natural resources of the state resulting from the construction and operation of the facility” as well as “...(f) Minimize, through the use of reasonable and available methods, the adverse effects on human health, the environment, and the ecology of the land and its wildlife and the ecology of state waters and their aquatic life.”

Each of the questions or requests that follow is categorized under Groundwater Issues, Surface Water and Benthic Resources, and Mitigation and can be qualified by the authority cited above.

Groundwater Issues

1. Physical water quality data recorded during the pump test at PW-1 from the Aqua Trolls data loggers was not provided from the observation wells, MW-1-1S, MW-1-SS, MW-1-DZ, MW-2, MW-3, MW-4, MW-5, and the surface water observation sites, IWF and Barge Slip. Please provide the actual field measurements (i.e., depth to water readings, temperature, conductivity, flowrates, etc.) in order to allow CAMA to evaluate the conclusion that only 3 percent of the extracted water from the radial collector wells will be from the groundwater zone.

2. Based on the modeled 3 percent to be extracted from the Biscayne Aquifer, 3.7 million gallons per day could be withdrawn from the Biscayne Aquifer at full scale operation. Please provide the data for CAMA to evaluate that was used to determine that the 3% extraction from the aquifer will not affect the benthic communities of Biscayne Bay.
3. Table 5.4 in the APT Report (HDR) indicates a positive upward seepage of groundwater to the bay, which is an important source of freshwater for benthic communities. Table 5.4 further indicates a reverse in seepage with the operation of the radial collector wells (RCWs); a net negative downward seepage is reported based on the difference in observed seepage rates prior to and during the APT. Please provide all the raw data from the Biscayne Bay seepage meters for review in order to allow CAMA to evaluate possible groundwater and surface water fluxes. Please use this and other data as necessary to verify the claim that the seepage results are inconclusive.
4. The Groundwater Modeling Report prepared by Bechtel stated on page 7-1 states that the groundwater flow pattern at the site prior to the APT shows groundwater flow to the west toward the IWF. However, the SFWMD-B-63b spreadsheet has a positive groundwater input (drainage inflow). Based on this, drainage inflow toward the IWF should be reflected as a negative value in the Flood Inflow per day without radial collector wells and the Ebb outflow per day without radial collector wells' formulas. Please explain this discrepancy.
5. The SFWMD-B-63b spreadsheet does not appear to produce the exact values displayed in the "Scenario 1 & 2" table, which were used to obtain the linear regression equations that predict the 1 square mile and 4 square mile impact. Please explain this discrepancy.
6. The ocean salinity concentration of 35 ppt does not reflect the actual seasonal variability in salinity concentrations that occur in the Biscayne Bay. Monthly averages obtained from actual salinity data measurements from a nearby source would better estimate any salinity impacts. Does FP&L have any other salinity data collected nearby they provide for our evaluation?

Surface Water and Benthic Resources

7. Please provide the data used to support the conclusion that the benthic resources that currently exist along the bay bottom over the footprint of the radial wells and adjacent areas will not be significantly affected.

Mitigation

8. Please provide a detailed description of how the impacts to wetlands, surface water, groundwater and/or other habitats, flora and fauna that may be adversely impacted by the proposed construction and/or operation of the plant within the Biscayne Bay Aquatic Preserve boundaries will be mitigated.

Conditions of Certification that should be considered in future review of this application may include but are not limited to:

1. An adequate baseline survey of seagrass cover and benthic fauna in the vicinity of the proposed construction and operation of the radial collector wells and the vicinity of the on-site plant where reuse water would be used, to be conducted within a certain amount of time before the onset of construction-related activities. FP&L will work with DEP staff to design monitoring studies to accomplish these surveys. The monitoring should occur sufficiently prior to and after the beginning of activities at the sites, dates to be determined by FP&L and DEP staff. More information related to the lateral extent of the radial collector wells needs to be provided during this phase also.
2. All dewatering/construction activities happening on the upland may impact the waters of the cooling canal system in that the byproduct will be placed in the system. Given that the cooling canal system has a tidally-connected influence on the groundwater, it can be assumed based on existing knowledge that groundwater moves through the aquifer and into the surface waters of the bay. Best management practices and/or other ways to ensure that artifacts of the dewatering and construction process should be followed to protect the surface waters of the Biscayne Bay Aquatic Preserve.
3. FP&L will provide funds to hire an independent contractor, selected by FDEP, to study the karst features at and adjacent to the radial well collector sites and construction site to determine the feasibility of karst fractures occurring related to their activities. The report will also include recommendations to avoid any fractures during operation and construction as well as proposed mitigation measures in the event of a fracture that impacts benthic communities in the area.
4. FP&L will monitor the velocity of water intake from their collector wells utilizing permanently installed equipment to verify that they are not exceeding the proposed velocities submitted in the application. In addition FP&L will put in place monitoring to verify that no entrainment of vertebrate or invertebrate species is occurring due to their radial collector wells. If entrainment is occurring a remediation plan and mitigation measures will be adopted to eliminate, minimize, or mitigate for this entrainment will be adopted and followed.

5. FP&L will work with CAMA and DEP/ERP to monitor and ensure that no further impacts to the Biscayne Bay Aquatic Preserve will occur from the operation and/or construction of the new units.

VII DEP SITING COORDINATION OFFICE

FDEP-VII-2: The Department notes that FPL has conservatively estimated the "maximum" wetland impacts for the plant and associated facilities. Provide an estimate of the anticipated "actual" wetland impacts, following anticipated utility efforts to minimize impacts. FPL indicated in its first response to this question that the estimated actual and maximum wetland impacts were provided in Section 1 of Appendix 10.4 to Volume III of the SCA. Functional Loss is not the value requested. Please provide the best estimate of the number of acres of wetlands that will actually be impacted after FPL has applied all available avoidance criteria.

FDEP-VII-3: Provide comparative topographic maps showing the current sea level and predicted sea level in the year 2060 in the area of the Turkey Point Plant based on the most recent data available. Provide a summary of the background data (with citations) used to support the predicted sea level.

FDEP VII-5: If DEP determines that the radial collector wells are not approvable, what does FPL plan to use as an alternate backup cooling water source?

OTHER AGENCIES/LOCAL GOVERNMENTS

The following agencies have identified the need for additional information, and their requests are attached by the Department:

1. South Florida Regional Planning Council;
2. South Florida Water Management District;
3. Miami Dade County; and
4. City of Miami.

The above agency comments/questions are attached "*as received*" by the Department without editing. It should be noted that several questions proposed are those for which answers will not likely be available until the post-certification phase of the certification process. Additionally, some questions may be reflective of procedural requirements for which there exist no identifiable state or local standards. The City of Miami appears to have combined questions related to the transmission line and plant portions of the application. (It appears that questions A-F, H, and J-K are plant related.)

As such, the Department requests that for this completeness filing the applicant respond to only those questions related to the plant and associated facilities other than the transmission lines. Furthermore, as indicated above, the applicant should identify those items which are more suitably handled through post-certification submittals, and

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propose related conditions of certification. Lastly, the applicant should identify those questions for which there exists no applicable standard.

Although the Florida Fish and Wildlife Conservation Commission (FWC) considers the application complete, their letter is attached and identifies items that may be incorporated within a future "Preliminary Statement of Issues".

Although a separate federal proceeding coordinated by the Nuclear Regulatory Commission will directly incorporate federal reviews, completeness comments regarding the Site Certification Application were submitted by the U.S. Department of the Interior, National Park Service, Biscayne National Park. Those questions/comments were forwarded to the applicant upon receipt.

Requests for completeness items related to federal permit applications are processed directly by the federally delegated or approved program and are not intended to be included herein.