

ATTACHMENT 1

LIST OF MISREPRESENTATIONS OF CONTENTION 4 IN PEF'S MOTION FOR SUMMARY DISPOSITION

"With regard to Contention 4, the Commission clarified that, as restated by the Board, Contention 4 'specifically identifies the aquifer system underlying the project area, the Withlacoochee and Waccasassa Rivers, and the freshwater wetlands' in the project site as the affected aquatic resources." CLI-10-02 at 14-15 Motion p.3

In reality the Commission merely reaffirmed the Board's decision in denying PEF's appeal by stating (emphasis in bold):

"The Board's decision here was thorough and clear, and, with the exception of one matter related to Contentions 7 and 8 – the Board's consideration of Greater-than-Class-C (GTCC) waste – we decline to disturb the challenged contention admissibility rulings." CLI-10-02 at 2.

So, contrary to PEF's repeated assertions, the Board decision was in no way changed.

"Apparently, the aquifer system underlying the project area and the Withlacoochee and Waccasassa Rivers are the environmental resources specifically identified for dewatering (LBP-09-10 at 149) and on-site freshwater wetland areas are the environmental resources specifically identified for salt drift (id.)." Motion footnote 13, p.3

Those named rivers were merely **examples** used in the order which included (emphasis in bold) "Impacts on Outstanding Florida Waters **such as** the Withlacoochee and Waccasassa Rivers." A.3 There were no restrictions limiting salt drift effects to only the freshwater wetlands for the Board wrote (emphasis in bold):

B. Impacts to **wetlands, floodplains, special aquatic sites, and other waters**, associated with salt drift and salt deposition resulting from cooling towers (that use salt water) being situated in an inland, freshwater wetland area of the LNP site.

Therefore, floodplains, special aquatic sites and other waters were also included in the salt drift effects section.

“The issues to be adjudicated in Contention 4, as narrowed and restated by the Board and clarified by the Commission, address what are the reasonably foreseeable impacts to the aquatic resources of the aquifer system underlying the Levy site, the Withlacoochee and Waccasassa Rivers, and the freshwater wetlands in the area of the Levy site that arise due to passive and active dewatering and salt drift, and whether it is proper to characterize those impacts as SMALL.” Motion p.7

Again, this misrepresents the Board's ruling. It specifically references cumulative effects off and on site due to the connection to the underlying aquifer, see Attachment 1.

It also misrepresents the Commission's ruling as discussed above.

“As reiterated in CLI-10-02, the Board specifically identified the affected aquatic resources for salt drift as the on-site freshwater wetlands.” Motion p.8

As previously noted above, this is incorrect. The Commission ruling did not disturb Contention 4 as admitted by the Board.

“While floodplains are not within the scope of Contention 4 as specifically limited by the Board,” Motion, p.13

Contention 4 A is quite clear and references (emphasis in bold) “Impacts to wetlands, **floodplains**, special aquatic sites, and other waters, associated with dewatering”

“As admitted into the proceeding by the Atomic Safety and Licensing Board (Board) and clarified by the Commission, Contention 4 asserts that the LNP ER is deficient, in part, because it fails to adequately address, and inappropriately characterizes as SMALL, certain specific environmental impacts resulting from salt drift and salt deposition on vegetation and freshwater wetland areas at the Levy site.” (Howroyd Affidavit ¶ 4)

There were no restrictions limiting salt drift effects to only the freshwater wetlands for the Board wrote:

B. Impacts to wetlands, floodplains, special aquatic sites, and other waters, associated with salt drift and salt deposition resulting from cooling towers (that use salt water) being situated in an inland, freshwater wetland area of the LNP site.

“Also, the Board narrowed the submitted Contention 4 from the broad, non-specific discussion of “wetlands, floodplains, special aquatic sites, and other waters” to (a) the aquifer system underlying the project area and (b) the Outstanding Florida Waters (OFWs) such as the Withlacoochee and Waccasassa Rivers.” (Howroyd Affidavit ¶ 4)

As shown previously, Contention 4 as admitted by the Board has never been altered.