FINAL DETERMINATION

Florida Power & Light Company
Manatee Plant Reburn Project
DEP File No. 0810010-010-AC, PA02-44

The Department distributed a public notice package on May 26, 2005 to allow the applicant to construct and commence operation of a reburn system on Units 1 and 2 at its Manatee Power Plant, located at 19050 State Road 62 in Parrish, Manatee County. The Public Notice of Intent to Issue concerning the Draft Permit was published in the Bradenton Herald on June 6, 2005.

COMMENTS/CHANGES

No comments were received by the Department from the public.

No comments were received from EPA.

Five comments were received from the applicant by letter dated June 16, 2005. Four of the comments recommended wording changes to four separate conditions and one comment requested that a condition be stricken in its entirety.

DEPARTMENT ACTION

Each of the three comments related to wording changes within the conditions are acceptable. These changes related to the following condition numbers: Specific Conditions I.5, I.9 and II.

Regarding the comment related to the striking of Condition I.2., the subject (draft) condition is listed below as well as the argument which was made by the applicant:

> *Beginning March 31, 2006, the permittee shall be responsible for submitting semi-annual summary reports. These reports will outline the status of construction, each test program conducted and a summary of any test program results. Proprietary or confidential data, documents or information submitted or disclosed to FDEP shall be identified as such by the Permittee and shall be maintained as such pursuant to applicable Florida law. The semi-annual summary reports will be sent to the DEP Southwest District Office and the Bureau of Air Regulation. The first summary will be due March 31, 2006 and will cover all construction, tests and results from such tests conducted between the issuance date of this permit and December 31, 2005. In a like manner, a similar summary shall be submitted for each 180 day period thereafter.*
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> FPL COMMENT: FPL previously agreed with the Department to submit a report summarizing the 18 month program designed to evaluate the nitrogen oxides emission rates, boiler performance and Unit operation outlined in Paragraph 7 of the Reburn Agreement (September 2002). Providing the Department with semi-annual reports summarizing the status of construction, test programs conducted, and test program results as required by Specific Condition 2 of the Draft AC permit was not addressed in the terms of the agreement and is inconsistent with the many AC permits that FPL has acquired. The additional reporting created by this Specific Condition is burdensome and will take already limited Plant resources from the critical tasks associated with commissioning and optimizing the potentially complex application of a Reburn technology on Manatee Units 1 & 2. FPL requests that this Specific Condition is deleted in its entirety, as there is no regulatory basis for this condition, and, reporting terms and conditions were previously established in the "Agreement".
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> RESPONSE: The Department notes that Rule 62-4.070 provides the Department with broad authority to require conditions within permits, and that the Agreement was entered into "… for the exclusive purpose of ensuring compliance with the ambient air quality standards for ozone as provided for by Section 366.8255(1)(d)7, Florida Statutes (2002)". However, the permit condition will be simplified/clarified as follows:

Beginning March 31, 2006, the permittee shall submit semi-annual reports providing a brief summary of the following: scope of construction completed, a schedule for upcoming construction, a general description of the NO_X test program conducted and a summary of the NO_X test program results. Proprietary or confidential data, documents or information submitted or disclosed to FDEP shall be identified as such by the Permittee and shall be maintained as such pursuant to applicable Florida law. The semi-annual summary reports will be sent to the DEP Southwest District Office and the Bureau of Air Regulation. The first summary will be due March 31, 2006 and will cover the period between the issuance date of this permit and December 31, 2005. In a like manner, a similar summary shall be submitted for each 180 day period thereafter.

Regarding the comment related to the reduction of requirements with Specific Condition I.3., the subject (draft) condition is listed below as well as the argument which was made by the applicant:

For the duration of the project, once the permittee has established any test program which involves stack testing (formal or informal), a Scope of Work shall be sent by fax to the DEP Southwest District Office as soon as possible and in advance of the planned commencement of the test program. This Scope of Work will give general descriptions of processes, work planned, dates of the tests and general objectives of the tests. Proprietary or confidential data, documents or information submitted or disclosed to FDEP shall be identified as such by the Permittee and shall be maintained as such pursuant to applicable Florida law.

<u>FPL COMMENT</u>: Due to the many different configurations, variables, and scheduling perturbations anticipated with the commissioning the Reburn system, providing notice to the Department of "any test program which involves stack testing (formal or informal)" as required by Specific Condition 3 is unprecedented in any FPL permit, and places undue burdens on both the Manatee Plant and the DEP Southwest District Office. FPL suggests the following language replace the existing language of Specific Condition 3: "*FPL shall notify the DEP Southwest District, at least 15 days prior to the date on which each formal compliance test is to begin, of the date, time, and place of each such test, and the test contact person who will be responsible for coordinating and having such test conducted for the owner or operator as provided by Rule 62-297.310.*"

<u>RESPONSE</u>: The Department accepts (in part) FPL's suggestion, but will additionally require notice of major changes to the construction schedule as follows:

FPL shall notify the DEP Southwest District, at least 15 days prior to the date on which each formal compliance test is to begin, of the date, time, and place of each such test, and the test contact person who will be responsible for coordinating and having such test conducted for the owner or operator as provided by Rule 62-297.310. FPL shall promptly notify the DEP Southwest District Office and the Bureau of Air Regulation of substantial changes to the construction schedule.

CONCLUSION

The final action of the Department is to issue the permit with the changes described above.