



Enron North America Corp.

P.O. Box 1188

Houston, TX 77251-1188

**VIA FACSIMILE FOLLOWED BY
CERTIFIED MAIL NO. 7000 2870 0000 6178 2420**

February 12, 2003

Mr. Al Linero
New Source Review
Division of Air Resource Management
Florida Department of Environmental Protection
2600 Blair Stone Road, MS 5500
Tallahassee, FL 32399-2400

RECEIVED

FEB 17 2003

BUREAU OF AIR REGULATION

Re: Deerfield Beach Energy Center, Project Number 0112534-001-AC
Draft Permit Number PSD-FL-314

Dear Mr. Linero:

On behalf of the Deerfield Beach Energy Center, LLC ("DBEC"), please consider this letter as a formal request to withdraw from consideration, the air permit application for the Deerfield Beach Energy Center.

DBEC appreciates the your and the Department's efforts through this process. However, unfortunately at this time we are unable to further the development process for this project.

Should you have any questions or wish to discuss this matter, I may be contacted at 713/345-4623. Thank you for your attention to this matter.

Best Regards,

A handwritten signature in black ink, appearing to read "Scott Churbock".

Scott Churbock
Environmental Manager

SC

RECEIVED

OCT 17 2001

STATE OF FLORIDA
DEPARTMENT OF ADMINISTRATIVE HEARINGS

BUREAU OF AIR REGULATION

BROWARD COUNTY, CITY OF CORAL
SPRINGS, and CITY OF COCONUT
CREEK,

Petitioners,

v.

STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION,

and

DEERFIELD BEACH ENERGY CENTER,
L.L.C. (AN AFFILIATE OF ENRON
NORTH AMERICA),

Respondents.

CONSOLIDATED

DOAH CASE NOS. 01-2727
01-2728
01-2729

**DEERFIELD BEACH ENERGY CENTER'S FIRST REQUEST
FOR PRODUCTION OF DOCUMENTS
DIRECTED TO CITY OF COCONUT CREEK**

Respondent, Deerfield Beach Energy Center, L.L.C., pursuant to Fla.R.Civ.P. 1.350 and F.A.C. 28-106.206, requests that petitioner, City of Coconut Creek ("Coconut Creek") produce the following documents within the time provided by law:

DEFINITIONS AND INSTRUCTIONS

A. "Energy Center" shall refer to respondent Deerfield Beach Energy Center, L.L.C. and to Enron North America; and to their corporate parents, subsidiaries, affiliates,

CASE NOS. 01-2727, 01-2728, 01-2729

successors, officers, directors, shareholders, employees, attorneys, agents, and other representatives known to you.

B. "The City," "you" and "your" shall refer to petitioner City of Coconut Creek; and to its officials, employees, attorneys, agents, and other representatives known to you.

C. The "Petition" shall mean your Petition for Administrative Hearing in this matter, and any amendments subsequently proposed or filed by you.

D. "DEP" shall refer to the State of Florida Department of Environmental Protection; and to its officials, employees, attorneys, agents, and other representatives known to you.

E. The "Permit" shall refer to the Permit identified in the Petition.

F. The term "document" shall refer to all information and materials within the scope of Fla.R.Civ.P. 1.350 and specifically includes (without limitation) all information kept on audiotape, videotape, computer storage devices, or other electronic storage media. A draft or non-identical copy is a separate document within the meaning of this term.

G. The terms "all" and "each" shall be construed as all and each.

H. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be outside its scope.

I. The term "concerning" means relating to, referring to, pertaining to, describing, evidencing, or constituting.

J. The use of the singular form of any word includes the plural and vice versa.

K. The term "person" means any natural person, individual, sole proprietorship, partnership, corporation, association, organization, joint venture, firm, other business enterprise, governmental body, or group of natural persons or other entities.

GREENBERG TRAURIG, P.A.

1221 BRICKELL AVENUE, MIAMI, FLORIDA 33131

305-579-0500 FAX 305-579-0717 www.gtllw.com

MIAMI NEW YORK WASHINGTON, D.C. ATLANTA PHILADELPHIA TYSONS CORNER CHICAGO BOSTON PHOENIX WILMINGTON LOS ANGELES DENVER
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L: The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise).

REQUESTED DOCUMENTS

1. All documents identified or described in your responses to Energy Center's First Set of Interrogatories served upon you in this case.

2. All documents upon which you rely to support your contention that the DEP should not issue the Permit.

3. All documents upon which you rely to support your contention that, if the Permit is to be issued, then the DEP should amend the Permit.

4. All documents upon which you rely to support your contention in paragraph 14 of your Petition that "a quantitative cumulative air quality analysis should be performed."

5. All documents concerning "whether an Environmental Impact Statement/Evaluation should have been conducted by ENRON prior to the Notice of Intent to Issue Air Construction Permit," as alleged in paragraph 15 of your Petition.

6. All documents concerning "whether the assessment of environmental impacts associated with industrial-related activities, including those on ambient air quality, must be performed prior to the issuance of a permit," as alleged in paragraph 16 of your Petition.

7. All documents concerning "whether the DEP erroneously determined that the proposed location was remote from residential areas," as alleged in paragraph 17 of your Petition.

8. All documents concerning "whether the impact upon the CITY of the prevailing wind direction from the proposed facilities has been considered and factored into the decision to issue a Permit," as alleged in paragraph 18 of your Petition.

9. All documents concerning "whether it is necessary for a quantitative cumulative air quality analysis to be performed prior to the issuance of a Permit to ensure that the

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combined emissions from the various sources in the area do not cause a contravention of applicable air quality standards," as alleged in paragraph 19 of your Petition.

10. All documents concerning "whether DEP's Intent to Issue Air Construction Permit was based on erroneous and misleading information concerning the proposed power plant's distance to environmentally sensitive lands and, therefore, should be reassessed," as alleged in paragraph 20 of your Petition.

11. All documents concerning whether, as you allege in subparagraph 20(v) of your Petition, "The proximity of these ecosystems was not taken into account by the DEP in their review of the proposed location."

12. All documents upon which you rely in support of your contention, as alleged in paragraph 24 of your Petition, that "the applicant's proposed BACT limits (or absence thereof) for the turbines, fuel oil heater, tanks, and cooling towers, accepted by the DEP, are not consistent with the definition of BACT in Rule 62-210.200(38), F.A.C. and the requirements in Rule 62-212.400(6)."

13. All documents concerning whether, as you allege in paragraph 24 of your Petition, "the DEP's BACT determinations do not recognize the much lower limits currently being permitted in other states."

14. All documents concerning the "much lower limits currently being permitted in other states," as alleged in paragraph 24 of your Petition.

15. All documents on which you rely in contending that DEP's BACT determinations for the proposed Plant identified in the Permit do not "address the social and economic impacts to the CITY for failing to appropriately limit emissions from the facility," as alleged in paragraph 24 of your Petition.

16. All documents concerning whether, as alleged in paragraph 25 of your Petition,

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Other states have permitted a large number of simple cycle peaking power plants with NOx limits of 2 to 5 ppmvd at 15% O₂ on gas using SCR, XONON, or SCONOX and 5.9 to 13 ppmvd on oil, achieved with water injection and SCR.

17. All documents on which you rely to support your contention, as alleged in paragraph 25 of your Petition, that

These lower limits have been achieved in practice.

18. All documents on which you rely to support your "recommendation", as alleged in paragraph 25 of your Petition, that

a much lower NOx limit be established for the turbines, consistent with the permitting history in other states.

19. All documents concerning whether, as alleged in paragraph 26 of your Petition,

Other states have permitted simple cycle peaking power plants with CO limits of 2 to 6 ppmvd at 15% O₂ on oil and gas, achieved using an oxidation catalyst.

20. All documents on which you rely to support your contention, as alleged in paragraph 26 of your Petition, that

Much lower limits have been demonstrated in source tests and with continuous emission monitors.

21. All documents on which you rely to support your contention, as alleged in paragraph 26 of your Petition, that

a much lower CO limit should be established for the turbines and that continuous compliance [should] be demonstrated with a continuous emission monitor.

22. All documents concerning whether, as alleged in paragraph 27 of your Petition,

Other states have permitted simple cycle peaking power plants with VOC limits of two (2) ppmvd at 15% O₂ on oil and gas, achieved using an oxidation catalyst.

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23. All documents on which you rely to support your contention, as alleged in paragraph 27 of your Petition, that

Much lower limits have been demonstrated in source tests.

24. All documents on which you rely to support your contention, as alleged in paragraph 27 of your Petition, that

a much lower VOC limit should be established for the turbines.

25. All documents on which you rely to support your contention, as alleged in paragraph 28 of your Petition, that the 2.5 million gallon distillate storage tank, the 0.6 million gallon distillate storage tank, the gas-fired fuel heater, and the wet mechanical draft cooling towers

must use BACT and be regulated by permit, pursuant to Rule 62-210.200(112), F.A.C.

26. All documents on which you rely to support your contention, as alleged in paragraph 28 of your Petition, that the DEP should

conduct a formal BACT analysis for these minor sources and revise the permit to include appropriate emission limits and monitoring requirements.

27. All documents concerning the City's great concern, as alleged in paragraph 29 of the Petition, with respect to "the diesel exhaust from any such engines."

28. All documents concerning whether, as alleged in paragraph 29 of your Petition, the combustion of distillate in the turbines would produce "diesel exhaust," which is recognized by the U.S. Environmental Protection Agency and California as a potent human carcinogen and respiratory irritant.

29. All documents concerning the City's deep concern, as alleged in paragraph 30 of your Petition,

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about the impact of these emissions, as well as others, set out below, on the residents of Coconut Creek.

30. All documents concerning whether, as alleged in paragraph 31 of your Petition,

the definition of BACT in Rule 62-210.200(38) and implementing EPA guidance in the NSR Manual (EPA, New Source Review Workshop Manual, October 1990, Section IV.D.3) require taking into account the "environmental" impacts during the top-down BACT process. The DEP is further required to evaluate the social and economic impacts of its decisions, pursuant to Rule 62-212.400(6)(a)4, F.A.C.

31. All documents on which you rely to support your contention, as alleged in paragraph 32 of your Petition, that

the use of distillate fuel in a densely populated area is inappropriate, has far-reaching social and economic implications for its residents, and is not consistent with Rule 62-212.400(6)(a), F.A.C.

32. All documents concerning whether, as alleged in paragraph 33 of your Petition,

0.05% sulfur distillate is not BACT for SO₂ and sulfuric acid mist when firing oil.

33. All documents on which you rely to support your contention, as alleged in paragraph 33 of your Petition, that

lower sulfur distillate, containing only thirty (30) ppmw sulfur, is currently available on the east coast. Further, the EPA has adopted stringent fuel regulations that limit the sulfur content of diesel fuel to 15 ppmw. These regulations go into effect in June 2006 (Federal Register, v. 66, no. 12, January 18, 2001, p. 5002 *et seq.*), at which point ultra low sulfur diesel will be widely available in the Florida market.

34. All documents on which you rely to support your contention, as alleged in paragraph 34 of your Petition, that

the permit [should] be modified to eliminate the use of distillate oil. In the short-term, a backup fuel such as LNG or propane or a noninterruptible gas supply contract for curtailments should be required, until such time as the capacity constraints on the Florida Gas Transmission Pipeline are alleviated, but

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no later than January 2003. If distillate is retained, diesel exhaust emissions should be rigorously controlled and 30 ppmw diesel fuel be required on startup and 15 ppmw diesel when it becomes available, but no later than June 2006.

35. All documents concerning whether, as alleged in paragraph 35 of your Petition, during startups and shutdowns, combustion temperatures and pressures change rapidly, resulting in inefficient combustion and much higher emissions of NO_x, CO, and VOCs (including aldehydes) than during steady state operation.

36. All documents concerning whether, as alleged in paragraph 36 of your Petition, the CITY is concerned that virtually unlimited and uncontrolled startup and shutdown emissions will result in significant health impacts in downwind areas of Coconut Creek, particularly during combined operation of the Pompano and Deerfield Beach Energy Centers.

37. All documents concerning whether, as alleged in paragraph 36 of your Petition, emissions of formaldehyde, for example, can increase by over a factor of 500 during startups, compared to full load operation.

38. All documents concerning whether, as alleged in paragraph 36 of your Petition, if each turbine experienced as few as 100 startups per year, lasting only 10 minutes, the emissions of formaldehyde would exceed 10 ton/yr and require the use of maximum achievable control technology ("MACT") pursuant to Rule 62-204.800, F.A.C.

39. All documents concerning whether, as alleged in paragraph 37 of your Petition, omitting limits on startup and shutdown emissions is not consistent with requirements of the Clean Air Act.

40. All documents concerning whether, as alleged in paragraph 37 of your Petition,

The U.S. EPA has consistently defined startup and shutdown to be part of the normal operation of a source. The EPA has also consistently concluded that these emissions should be accounted for in the design and implementation or the operating procedure for the process and control equipment. EPA has concluded that "[w]ithout clear definition and limitations, these automatic exemption provisions [for startups and shutdowns] could effectively shield excess emissions

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arising from poor operation and maintenance or design, thus precluding attainment."

41. All documents on which you rely to support your contention, as alleged in paragraph 37 of your Petition, that

these emissions should have been considered in the BACT analysis and the related health impacts addressed in conjunction with the environmental review required pursuant to Rule 62-210.200(38), F.A.C.

42. All documents concerning whether, as alleged in paragraph 37 of your Petition, Permits issued by other states include limits on startup and shutdown emissions.

43. All documents on which you rely to support your contention, as alleged in paragraph 37 of your Petition, that

a permit condition [should] be included that specifically limits the number, duration, and emissions during startups and shutdowns, to comply with BACT and MACT.

44. All documents on which you rely to support your contention, as alleged in paragraph 38 of your Petition, that

The project is not in compliance with [Broward County Code Section 27-178] because emissions of diesel exhaust, formaldehyde, and other HAPs have not been assessed and mitigated. Therefore, the project is in violation of Rule 62-210.300(4)(d)15.a F.A.C., which requires compliance with the requirements of Broward County.

45. All documents concerning any payments by you to any expert or consultant employed by you in connection with Energy Center's proposal to build a plant in Deerfield Beach.

46. All documents concerning any agreements between you and any expert or consultant employed by you in connection with Energy Center's proposal to build a plant in Deerfield Beach.

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47. All documents provided by you to any expert or consultant employed by you in connection with Energy Center's proposal to build a plant in Deerfield Beach.

48. All documents (including, without limitation, any reports) received from any expert or consultant employed by you in connection with Energy Center's proposal to build a plant in Deerfield Beach.

49. All documents concerning any payments by you to any expert or consultant employed by you in connection with the Permit and/or Energy Center's application for the Permit.

50. All documents concerning any agreements between you and any expert or consultant employed by you in connection with the Permit and/or Energy Center's application for the Permit.

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53. All documents concerning any payments by you to any expert or consultant employed by you in connection with this case.

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56. All documents (including, without limitation, any reports) received from any expert or consultant employed by you in connection with this case.

57. All documents concerning any communications between you and any person with respect to the Permit.

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58. All documents concerning any communications between you and any person with respect to Energy Center's application for the Permit.

59. All documents concerning any communications between you and any person with respect to the proposed Plant identified in your Petition.

60. All documents concerning any communications between you and any person with respect to Energy Center's proposal to build a plant in Deerfield Beach.

61. All documents concerning any communications between you and any person with respect to these proceedings.

62. All documents concerning any public meetings at which the Permit was discussed.

63. All documents concerning any public meetings at which Energy Center's application for the Permit was discussed.

64. All documents concerning any public meetings at which the proposed Plant identified in your Petition was discussed.

65. All documents concerning any public meetings at which Energy Center's proposal to build a plant in Deerfield Beach was discussed.

66. All documents concerning any public meetings at which these proceedings were discussed.

67. Copies of all documents that are quoted, excerpted, or paraphrased in your Petition, regardless of whether the Petition identifies the documents by name.

68. All documents on which you intend to rely at trial.

GREENBERG TRAURIG, P.A.

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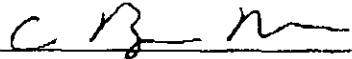
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Respectfully submitted,

Kerri L. Barsh, Esq.
Florida Bar No. 443840
C. Ryan Reetz
Florida Bar No. 934062
Paul C. Savage, Esq.
Florida Bar No. 088587
Greenberg Traurig, P.A.
1221 Brickell Avenue
Miami, Florida 33131
Telephone: (305) 579-0500
Facsimile: (305) 579-0717

By: 
C. Ryan Reetz

Counsel for Deerfield Beach Energy, L.L.C.

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CASE NOS. 01-2727, 01-2728, 01-2729

CERTIFICATE OF SERVICE

I certify that copies of the foregoing document were served by facsimile and U.S. Mail
on October 15, 2001 to:

Martha L. Nebelsiek, Esq.
Department of Environmental Protection
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

John Hearn, Esq.
City of Coral Springs
9551 West Sample Road
Coral Springs, Florida 33065

Jose R. Gonzalez, Esq.
Broward County Attorney's Office
115 S. Andrews Avenue, Suite 423
Ft. Lauderdale, Florida 33301

Paul S. Stuart, Esq.
City of Coconut Creek
4900 W. Copans Rd.
Coconut Creek, FL 33062

Nancy A. Cousins, Esq.
City of Coconut Creek
4800 West Copans Road
Coconut Creek, Florida 33063



C. Ryan Reetz

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STATE OF FLORIDA
DEPARTMENT OF ADMINISTRATIVE HEARINGS

BUREAU OF AIR REGULATION

BROWARD COUNTY, CITY OF CORAL
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successors, officers, directors, shareholders, employees, attorneys, agents, and other representatives known to you.

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Other states have permitted a large number of simple cycle peaking power plants with NO_x limits of 2 to 5 ppmvd at 15% O_2 on gas using SCR, XONON, or SCONOX and 5.9 to 13 ppmvd on oil, achieved with wet injection and SCR.

9. All documents concerning whether, as alleged in paragraph 16.a of your Petition,

Lower limits have been achieved in practice.

10. All documents on which you rely to support your contention, as alleged in paragraph 16.a of your Petition, that

A much lower NO_x limit should be established for the turbines, consistent with the permitting history in other states and pursuant to Rule 62-12.400(2)(f), F.A.C.

11. All documents concerning whether, as alleged in paragraph 16.b of your Petition,

Other states have permitted simple cycle peaking powerplants with CO limits of 2 to 6 ppmvd at 15% O_2 on oil and gas, achieved using an oxidation catalyst.

12. All documents concerning whether, as alleged in paragraph 16.b of your Petition,

Much lower limits have been demonstrated in source tests and with continuous emission monitors.

13. All documents on which you rely to support your contention, as alleged in paragraph 16.b of your Petition, that

a much lower CO limit should be established for the turbines and that continuous compliance be demonstrated with a continuous emission monitor.

14. All documents on which you rely to support your contention, as alleged in paragraph 16.c of your Petition, that the 2.5 million gallon fuel oil storage tank, the 0.6

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million gallon fuel oil storage tank, the gas-fired fuel heater, and the wet mechanical draft cooling towers

must use BACT and be regulated by permit, pursuant to Rule 62-210.200(112), F.A.C.

15. All documents on which you rely to support your contention, as alleged in paragraph 16.c of your Petition, that

the Department should conduct a formal BACT analysis for these minor sources and revise the permit to include appropriate emission limits and monitoring requirements.

16. All documents concerning the County's great concern, as alleged in paragraph 17 of your Petition, with respect to "the diesel exhaust from any such engines."

17. All documents concerning whether, as alleged in paragraph 18 of your Petition,

The combustion of distillate in the turbines would produce "diesel exhaust", which is recognized by the U.S. Environmental Protection Agency ("EPA") and California as a potent human carcinogen and respiratory irritant.

18. All documents concerning the County's deep concern, as alleged in paragraph 18 of your Petition,

about the impact of these emissions, as well as others, set out below, on the residents of Broward County.

19. All documents concerning whether, as alleged in paragraph 19 of your petition,

The definition of BACT in Rule 62-201.200(38), F.A.C. and implementing EPA guidance in the NSR manual (EPA, New Source Review Workshop Manual, October 1990, Section IV.D.3) require taking into account the environmental impacts during the top-down BACT process. DEP is further required to evaluate the social and economic impacts of its decisions, pursuant to Rule 62-212.400(6)(a)4, F.A.C.

20. All documents concerning whether, as alleged in paragraph 19 of your petition,

GREENBERG TRAURIG, P.A.

1221 BRICKELL AVENUE, MIAMI, FLORIDA 33131

305-579-0500 FAX 305-579-0717 www.gtllaw.com

MIAMI NEW YORK WASHINGTON, D.C. ATLANTA PHILADELPHIA TYSONS CORNER CHICAGO BOSTON PHOENIX WILMINGTON LOS ANGELES DENVER
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The COUNTY is deeply concerned about the impact of the power plant on the natural life at its Tradewinds Park, including Butterfly World. COUNTY is also concerned about the social and economic impact of placing this power plant as currently permitted in close proximity to residential areas and public recreation and natural areas and how it will affect their use and enjoyment by the public as well as the obvious health and contamination concerns raised herein.

21. All documents concerning whether, as alleged in paragraph 19 of your petition,

Additionally, fuel oil delivery via trucks will increase traffic and pollutants in the area of the subject facility.

22. All documents on which you rely to support your contention, as alleged in paragraph 19 of your petition, that

These factors have not been adequately considered in ENRON's application or DEP's evaluation thereof.

23. All documents on which you rely to support your contention, as alleged in paragraph 20 of your petition, that

the use of distillate oil fuel in a densely populated area, as is the area surrounding the proposed plant, is inappropriate, has far-reaching social and economic implications for its residents, and is not consistent with Rule 62-212.400(6)(a).

24. All documents concerning whether, as alleged in paragraph 21 of your petition,

0.05% sulfur distillate is not BACT for SO₂ and sulfuric acid mist when firing fuel oil.

25. All documents on which you rely to support your contentions, as alleged in paragraph 21 of your petition, that

Lower sulfur distillate containing only 30 ppmw sulfur, is currently available on the east coast of the United States. Further the EPA has adopted stringent fuel regulations that limit the sulfur content of diesel fuel to 15 ppmw. These regulations go into effect in June 2006 (federal Register, v. 66, no. 12, January 18, 2001, p. 5002, et seq.) At which point ultra low sulfur fuel diesel will be widely available in the Florida market.

GREENBERG TRAURIG, P.A.

1221 BRICKELL AVENUE MIAMI, FLORIDA 33131

305-579-0500 FAX 305-579-0717 www.gtllaw.com

MIAMI NEW YORK WASHINGTON, D.C. ATLANTA PHILADELPHIA TYSONS CORNER CHICAGO BOSTON PHOENIX WILMINGTON LOS ANGELES DENVER
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26. All documents on which you rely to support your contentions, as alleged in paragraph 21 of your petition, that

the permit [should] be modified to eliminate the use of distillate oil. In the short term, a back up fuel such a liquefied natural gas or propane or a noninterruptible gas supply contract for curtailments should be required, until such time as the capacity constraints on the Florida Gas Transmission Pipeline are alleviated, but no later than January 2003. If distillate oil is retained, its use should only be permitted when ENRON can demonstrate that natural gas cannot be delivered to the subject facility. Additionally, diesel exhaust emissions should be rigorously controlled and 30 ppmw S for diesel fuel be [required] on start up and 15 ppmw diesels when it becomes available, but no later than June 2006.

27. All documents concerning whether, as alleged in paragraph 22 of your petition,

During startups and shutdowns, combustion temperatures and pressure[s] change rapidly, resulting in inefficient combustion and much higher emissions of NO_x , CO, and VOCs than during steady state operation.

28. All documents concerning whether, as alleged in paragraph 22 of your petition,

The COUNTY is concerned that virtually unlimited and uncontrolled startup and shutdown emissions will result in significant health impacts in the downwind areas.

29. All documents concerning whether, as alleged in paragraph 22 of your petition,

Emissions of formaldehyde, for example, can increase by over a factor of 500 during startups, compared to full load operation.

30. All documents concerning whether, as alleged in paragraph 22 of your petition,

If each turbine experience as few as 100 startups per year, lasting only ten minutes, the emissions of formaldehyde would exceed 10 tons per year and require the use of maximum achievable control technology ("MACT") pursuant to Rule 62-204.800, F.A.C.

31. All documents concerning whether, as alleged in paragraph 23 of your petition,

Omitting limits on startup and shutdown emissions is not consistent with requirements of the Clean Air Act.

GREENBERG TRAURIG, P.A.
1221 BRICKELL AVENUE, MIAMI, FLORIDA 33131

305-579-0500 FAX 305-579-0717 www.gtlaw.com

MIAMI NEW YORK WASHINGTON, D.C. ATLANTA PHILADELPHIA TYSONS CORNER CHICAGO BOSTON PHOENIX WILMINGTON LOS ANGELES DENVER
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CASE NOS. 01-2727, 01-2728, 01-2729

32. All documents concerning whether, as alleged in paragraph 23 of your petition,

The U.S. EPA has consistently defined startup and shutdown to be part of the normal operation of a source. The EPA has also consistently concluded that these emissions should be accounted for in the design and implementation of the operating procedure for the process and control equipment. EPA has concluded that without clear definition and limitation, these automatic exemption provisions for startups and shutdowns could effectively shield excess emissions arising from poor operation and maintenance or design, thus precluding attainment.

33. All documents on which you rely to support your contention, as alleged in paragraph 23 of your petition, that

these emissions should have been considered in the BACT analysis and the related health impact address in conjunction with the environmental review require[d] pursuant to Rule 62-210.200(38), F.A.C.

34. All documents concerning whether, as alleged in paragraph 23 of your petition, Permits issued by other states include limits on startup and shutdown emissions.

35. All documents on which you rely to support your contention, as alleged in paragraph 23 of your petition, that

a permit condition [should] be included that specifically limits the number, duration, and emissions during startups and shutdowns, to comply with BACT and MACT.

36. All documents concerning any payments by you to any expert or consultant employed by you in connection with Energy Center's proposal to build a plant in Deerfield Beach.

37. All documents concerning any agreements between you and any expert or consultant employed by you in connection with Energy Center's proposal to build a plant in Deerfield Beach.

38. All documents provided by you to any expert or consultant employed by you in connection with Energy Center's proposal to build a plant in Deerfield Beach.

GREENBERG TRAURIG, P.A.

1221 BRICKELL AVENUE, MIAMI, FLORIDA 33131

305-579-0500 FAX 305-579-0717 www.gtllaw.com

AMI NEW YORK WASHINGTON, D.C. ATLANTA PHILADELPHIA TYSONS CORNER CHICAGO BOSTON PHOENIX WILMINGTON LOS ANGELES DENVER
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CASE NOS. 01-2727, 01-2728, 01-2729

39. All documents (including, without limitation, any reports) received from any expert or consultant employed by you in connection with Energy Center's proposal to build a plant in Deerfield Beach.

40. All documents concerning any payments by you to any expert or consultant employed by you in connection with the Permit and/or Energy Center's application for the Permit.

41. All documents concerning any agreements between you and any expert or consultant employed by you in connection with the Permit and/or Energy Center's application for the Permit.

42. All documents provided by you to any expert or consultant employed by you in connection with the Permit and/or Energy Center's application for the Permit.

43. All documents (including, without limitation, any reports) received from any expert or consultant employed by you in connection with the Permit and/or Energy Center's application for the Permit.

44. All documents concerning any payments by you to any expert or consultant employed by you in connection with this case.

45. All documents concerning any agreements between you and any expert or consultant employed by you in connection with this case.

46. All documents provided by you to any expert or consultant employed by you in connection with this case.

47. All documents (including, without limitation, any reports) received from any expert or consultant employed by you in connection with this case.

48. All documents concerning any communications between you and any person with respect to the Permit.

49. All documents concerning any communications between you and any person with respect to Energy Center's application for the Permit.

GREENBERG TRAURIG, P.A.

1221 BRICKELL AVENUE, MIAMI, FLORIDA 33131

305-579-0500 FAX 305-579-0717 www.gtlaw.com

AM1 NEW YORK WASHINGTON, D.C. ATLANTA PHILADELPHIA TYSONS CORNER CHICAGO BOSTON PHOENIX WILMINGTON LOS ANGELES DENVER
SAO PAULO FORT LAUDERDALE BOCA RATON WEST PALM BEACH ORLANDO TALLAHASSEE

CASE NOS. 01-2727, 01-2728, 01-2729

50. All documents concerning any communications between you and any person with respect to the proposed power plant identified in your Petition.

51. All documents concerning any communications between you and any person with respect to Energy Center's proposal to build a plant in Deerfield Beach.

52. All documents concerning any communications between you and any person with respect to these proceedings.

53. All documents concerning any public meetings at which the Permit was discussed.

54. All documents concerning any public meetings at which Energy Center's application for the Permit was discussed.

55. All documents concerning any public meetings at which the proposed power plant identified in your Petition was discussed.

56. All documents concerning any public meetings at which Energy Center's proposal to build a plant in Deerfield Beach was discussed.

57. All documents concerning any public meetings at which these proceedings were discussed.

58. Copies of all documents that are quoted, excerpted, or paraphrased in your Petition, regardless of whether the Petition identifies the documents by name.

59. All documents on which you intend to rely at trial.

GREENBERG TRAURIG, P.A.

1221 BRICKELL AVENUE, MIAMI, FLORIDA 33131

305-579-0500 FAX 305-579-0717 www.gtllaw.com

AMI NEW YORK WASHINGTON, D.C. ATLANTA PHILADELPHIA TYSONS CORNER CHICAGO BOSTON PHOENIX WILMINGTON LOS ANGELES DENVER
SAO PAULO FORT LAUDERDALE BOCA RATON WEST PALM BEACH ORLANDO TALLAHASSEE

CASE NOS. 01-2727, 01-2728, 01-2729

Respectfully submitted,

Kerri L. Barsh, Esq.

Florida Bar No. 443840

C. Ryan Reetz

Florida Bar No. 934062

Paul C. Savage, Esq.

Florida Bar No. 088587

Greenberg Traurig, P.A.

1221 Brickell Avenue

Miami, Florida 33131

Telephone: (305) 579-0500

Facsimile: (305) 579-0717

By: C. Ryan Reetz
C. Ryan Reetz

Counsel for Deerfield Beach Energy, L.L.C.

GREENBERG TRAURIG, P.A.

1221 BRICKELL AVENUE, MIAMI, FLORIDA 33131

305-579-0500 FAX 305-579-0717 www.gtlaw.com

AMI NEW YORK WASHINGTON, D.C. ATLANTA PHILADELPHIA TYSONS CORNER CHICAGO BOSTON PHOENIX WILMINGTON LOS ANGELES DENVER
SAO PAULO FORT LAUDERDALE BOCA RATON WEST PALM BEACH ORLANDO TALLAHASSEE

CASE NOS. 01-2727, 01-2728, 01-2729

CERTIFICATE OF SERVICE

I certify that copies of the foregoing document were served by facsimile and U.S. Mail
on October 15, 2001 to:


Martha L. Nebelsiek, Esq.
Department of Environmental Protection
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

John Hearn, Esq.
City of Coral Springs
9551 West Sample Road
Coral Springs, Florida 33065

Jose R. Gonzalez, Esq.
Broward County Attorney's Office
115 S. Andrews Avenue, Suite 423
Ft. Lauderdale, Florida 33301

Paul S. Stuart, Esq.
City of Coconut Creek
4900 W. Copans Rd.
Coconut Creek, FL 33062

Nancy A. Cousins, Esq.
City of Coconut Creek
4800 West Copans Road
Coconut Creek, Florida 33063


C. Ryan Reetz

GREENBERG TRAURIG, P.A.

1221 BRICKELL AVENUE, MIAMI, FLORIDA 33131

305-579-0500 FAX 305-379-0717 www.gtlaw.com

AMI NEW YORK WASHINGTON, D.C. ATLANTA PHILADELPHIA TYSONS CORNER CHICAGO BOSTON PHOENIX WILMINGTON LOS ANGELES DENVER
SAO PAULO FORT LAUDERDALE BOCA RATON WEST PALM BEACH ORLANDO TALLAHASSEE



Enron North America Corp.

P.O. Box 1188

Houston, TX 77251-1188

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AUG 13 2001

BUREAU OF AIR REGULATION

BY FACSIMILE

August 10, 2001

Mr. Alvaro A. Linero, P.E.
Administrator, New Source Review Section
Bureau of Air Regulation, Division of Air Resources Management
Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

RE: DEP Project No. 0112534-001-AC (PSD-FL-314)
Deerfield Beach Energy Center, Broward County
Comments on Draft Permit

Dear Mr. Linero:

On behalf of Deerfield Beach Energy Center, L.L.C., an application was filed on January 30, 2001 with the Florida Department of Environmental Protection (DEP), for a 510 megawatt (MW) dual fuel peaking power plant. The draft permit was received from DEP on June 7, 2001 and the Notice of Intent published in the South Florida Sun-Sentinel on June 20, 2001. The Department held a public meeting in Deerfield Beach on July 30, 2001 for the purpose of obtaining additional public comment and indicated that it is accepting comments until August 10, 2001.

Deerfield Beach Energy Center provided written comments on the draft permit in a letter dated July 19, 2001. At this time we would like to offer the following additional comments and information.

NOx Limit for Distillate Firing

Deerfield Beach Energy Center, L.L.C. requests clarification on the limits in the draft permit on NOx emissions. In review of the draft permit, we noted inconsistencies in the way the NOx emission limits are expressed. In condition 15a, the NOx emission limit for initial compliance is expressed as 42 ppmvd corrected to 15% oxygen when firing distillate oil. However, in condition 15b it is stated that for continuous compliance the NOx limit is to be 36 ppmvd corrected to 15% oxygen. This appears to be a mistake, especially given the fact that emissions are expected to be lowest in the "new and clean" turbine condition and not after the turbine is operated for a period of time and experiences normal wear and degradation.

It is the belief of Deerfield Beach Energy Center, based on the numerous BACT determinations made by the Department on identical projects, that the Department intended to issue an identical NOx BACT determination for this project (i.e., 42 ppmvd). The issuance of a draft permit for the Pompano Beach Energy Center in March, 2001 (with a 42 ppmdv limit) and the lack of any new test data becoming available since the Pompano draft permit to demonstrate better performance on a GE 7FA turbine, support that belief.

On page BD-3 of the Best Available Control Technology (BACT) evaluation for the Deerfield Beach Energy a list is provided of 20 recent BACT determinations for simple cycle natural gas and dual-fuel turbine projects (list attached to this letter). Included on this list are 10 determinations for dual-fuel General Electric (GE) 7FA turbine permits, including the Pompano Beach Energy Center and the Deerfield Beach Energy Center. All of the GE 7FA determinations shown in this table, *including the Deerfield Beach Energy Center*, reflect a NOx limit of 42 ppmvd @ 15% O₂ when firing distillate oil.

In our review, we also examined the "Technical Evaluation and Preliminary Determination" for the Deerfield Beach Energy Center, dated June 7, 2001. This documents shows that the maximum potential annual NOx emissions are 572 tons/year (Section 6.2 Emission Summary on page TE-6). This value is clearly based on a NOx emission limit of 42 ppm @ 15% O₂ when firing distillate oil, as it is essentially the same annual emissions as was permitted for the Pompano Beach Energy Center. It is also apparent that in the Technical Evaluation and Preliminary Determination, the Department relied on the ambient impact estimate provided in the permit application submitted for the Deerfield Beach Energy Center. This impact assessment assumed NOx emissions of 42 ppm @ 15% O₂ when firing distillate oil.¹

In the event that the Department did intend to issue a 36 ppmdv limit for NOx during distillate oil firing, Deerfield Beach Energy Center objects to such a condition and requests the Department to change this limit to 42 ppmdv. We have had several recent discussions with General Electric about the ability to meet such a limitation and have reached the conclusion that such a limit cannot be met. Specifically:

- General Electric has never provided a guarantee below 42 ppm for a dual-fuel simple cycle 7FA firing distillate fuel oil. General Electric has no plans to offer a lower emission guarantee.²
- There are approximately 10 simple cycle dual-fuel GE 7FAs in construction in various parts of the country. The General Electric NOx guarantee on each of these units is 42 ppm when firing distillate fuel.²

¹ PSD Permit Application for the Deerfield Beach Energy Center, ENSR International, January 2001. Document Number 6792-140-200R.

² Telecom. Chris Booth and David Kellermeyer, Enron North America, and Earl Hamil, General Electric, August 7, 2001.

- In order to insure compliance with an emission limit of 36 ppm_{dv} @ 15% O₂, it would be necessary to set up the turbines to operate in the range of 32 to 36 ppm_{dv}. The amounts of water injection required for NO_x control to these levels would cause excessive vibration and greatly accelerated deterioration of the gas turbines. Water injection at these levels would exceed the manufacturers recommended operating conditions and void General Electric guarantees. In addition, such operation would likely increase the emissions of other pollutants, such as CO and VOCs.³

We have asked General Electric to provide you with a letter confirming these and other facts relative to the inadvisability of a 36 ppm_{dv} NO_x limit and they have indicated a willingness to send you this letter.

In conclusion, it is clearly inappropriate to impose a NO_x limit of 36 ppm_{dv}, corrected to 15 % O₂, to oil-fired emissions from a GE 7FA dual-fuel turbine. Such a limit is 1) inconsistent with all of the prior relevant BACT determinations made by the Department, 2) inconsistent with the emissions and impact assessment information that the Department relied upon in making the Preliminary Determination on the Deerfield Beach Energy Center Permit, and 3) inconsistent with the General Electric performance guarantee and operating recommendations provided for this type of turbine.

Limitation on Hours of Distillate Operation

Without input from Deerfield Beach Energy Center, the Department issued an additional restriction on the annual use of distillate oil. Condition 10 of the draft permit provides that no more than 500 hours of distillate oil use per installed turbine is to be allowed after 2004. To our knowledge, such a restriction has not been previously imposed in other permits for similarly situated facilities including without limitation the PSD permits recently drafted or issued for other Enron affiliates (Midway Energy, Pompano Beach Energy). Deerfield Beach Energy Center objects to this condition.

In the Best Available Control Technology Determination for the Deerfield Beach Energy Center, the Department provided a rationale for the BACT determination, including the following for reducing the use of fuel oil.

"In anticipation of more plentiful natural gas supplies in the future, fuel oil operation will be limited to 500 hours per installed unit after 2004" (emphasis added)⁴.

The Deerfield Beach Energy Center has neither ownership nor control of gas pipelines or gas pipeline projects in development. As a result, the applicant has no ability to assure

³ Telecom. Chris Booth and David Kellermeyer, Enron North America and John Schroeder and Joel Chalfin, General Electric. August 8, 2001.

⁴ Page BD-14, Appendix BD. Best Available Control Technology Determination (BACT), Deerfield Beach Energy Center, June, 2001.

"more plentiful natural gas supplies in the future". Furthermore, there is no condition in the draft permit to provide relief for this restriction if natural gas supplies do not become more plentiful in the future. The Department's selection of the year 2004 as the point where additional oil use restrictions are imposed is unsupported and arbitrary. The potential for litigation and other actions delaying the completion of currently-planned pipeline capacity additions is substantial.

Deerfield Beach Energy Center also believes that imposing an additional limit "in anticipation" of future events may be contrary to published policy on BACT. EPA considers a control technique to be "available" if it has reached the commercial sales stage of development. In addition, EPA does not require a source to experience extended time delays or resource penalties to allow research to be conducted on a new control technique nor does it consider technologies in the pilot scale of testing to be "available."⁵ Although these concepts generally refer to emission control technology, as opposed to fuel availability, we believe that the concept applies equally to the anticipated development of fuel supply. In other words, we believe that assuming the future availability of a currently-unavailable control technique (in this case, reliable natural gas supply) is not consistent with EPA's BACT guidance.

As a result of these considerations, Deerfield Beach Energy Center strongly urges the Department to eliminate this additional distillate use restriction from the permit.

If you have any questions or would like to discuss these issues further, please contact Dave Kellermeyer of Enron North America at (713) 853-3161.

Sincerely
Deerfield Beach Energy Center



Ben F. Jacoby
Attorney-in-Fact

Attachment

cc: C. Halladay ✓
O. Ballerant ✓
O. Bone, Broward Co ✓
J. Buldman, SED ✓
B. Worley, EPA ✓
G. Bennett, NPS ✓
Broward Co. O&E ✓
Coconut Creek City Attorney ✓

⁵ USEPA New Source Review Manual, Draft, October 1990.

Coral Springs City Attorney ✓
Mayor, Coconut Creek ✓
Mayor, Coral Springs ✓

APPENDIX BD

BEST AVAILABLE CONTROL TECHNOLOGY DETERMINATION (BACT)

Project Location	Power Output (MW)	NO _x Limit ppmvd @ 15% O ₂ and Fuel	Technology	Comments
Deerfield Beach, FL	510	9 - NG 42 - No. 2 FO	DLN WI	3x170 MW GE PG7241FA CTs Application 03/01. 1000 hrs on oil
Pompano Beach, FL	510	9 - NG 42 - No. 2 FO	DLN WI	3x170 MW GE PG7241FA CTs Draft 03/01. 1000 hrs on oil
Midway St. Lucie, FL	510	9 - NG 42 - No. 2 FO	DLN WI	3x170 MW GE PG7241FA CTs Issued 2/01. 1000 hrs on oil
DeSoto County, FL	510	9 - NG 42 - No. 2 FO	DLN WI	3x170 MW GE PG7241FA CTs Issued 7/00. 1000 hrs on oil
Shady Hills Pasco, FL	510	9 - NG 42 - No. 2 FO	DLN WI	3x170 MW GE PG7241FA CTs Issued 1/00. 1000 hrs on oil
Vandolah Hardee, FL	680	9 - NG 42 - No. 2 FO	DLN WI	4x170 MW GE PG7241FA CTs Issued 11/99. 1000 hrs on oil
Oleander Brevard, FL	850	9 - NG 42 - No. 2 FO	DLN WI	5x170 MW GE PG7241FA CTs Issued 11/99. 1000 hrs on oil
JEA Baldwin, FL	510	10.5 - NG 42 - No. 2 FO	DLN WI	3x170 MW GE MS7241FA CTs Issued 10/99. 750 hrs on oil
Reliant Osceola, FL	510	10.5 - NG 42 - No. 2 FO	DLN WI	3x170 MW GE MS7241FA CTs Issued. 750 hrs on oil
TEC Polk Power, FL	330	10.5 - NG 42 - No. 2 F.O.	DLN WI	2x165 MW GE MS7241FA CTs Issued 10/99. 750 hrs on oil
Dynegy, FL	510	15 - NG	DLN	3x170 MW WH 501F CTs Issued. Gas only
Dynegy Heard, GA	510	15 - NG	DLN	3x170 MW WH 501F CTs Issued. Gas only
Thomaston, GA	680	15 - NG 42 - No. 2 FO	DLN WI	4x170 MW GE PG7241FA CTs Issued. 1687 hrs on oil
Dynegy Reidsville, NC	900	15 - NG (by 2002) 42 - No. 2 FO	DLN WI	5x180 MW WH 501F CTs Initially 25 ppm NO _x limit on gas Issued. 1000 hrs on oil.
Lyondell Harris, TX	160	25 - NG	DLN	1x160 MW WH 501F CTs Issued 11/99. Gas only
Southern Energy, WI	525	15/12 - NG 42 - No. 2 FO	DLN WI	3x175 MW GE PG7241FA CTs 15/12 ppm are on 1/24 hr basis Issued 1/99. 800 hrs on oil
Carson Energy, CA	42	5 - NG (LAER)	Hot SCR	42 MW LM6000PA. Startup 1995. Ammonia limit is 20 ppmvd
McClelland AFB, CA	85	5 - NG (LAER)	Hot SCR	85 MW GE 7EA. Applied 1999 Ammonia proposal 10 ppmvd
Lakeland, FL	250 CON	9/9 - NG (by 2002) 42/15 - No. 2 FO	DLN/HSCR WI/HSCR	250 MW WH 501G CT Initially 25 ppm NO _x limit on gas Issued 7/98. 250 hrs on oil.
PREPA, PR	248 CON	10 - No. 2 FO	WI & HSCR	3x83 MW ABB GT11N CTs Issued 12/95.

CON = Continuous
SC = Simple Cycle
INT = Intermittent

DLN = Dry Low NO_x Combustion
SCR = Selective Catalytic Reduction
HSCR = Hot SCR

FO = Fuel Oil
NG = Natural Gas
WI = Water or Steam Injection

GE = General Electric
WH = Westinghouse
ABB = Asea Brown Bovari



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JUL 25 2001

Enron North America Corp.

P.O. Box 1188

Houston, TX 77251-1188

BUREAU OF AIR REGULATION

CERTIFIED MAIL

July 19, 2001

Mr. Alvaro A. Linero, P.E.
Administrator, New Source Review Section
Bureau of Air Regulation, Division of Air Resources Management
Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, FL 32399-2400

RE: DEP Project No. 0112534-001-AC (PSD-FL-314)
Deerfield Beach Energy Center, Broward County
Comments on Draft Permit

Dear Mr. Linero:

On behalf of Deerfield Beach Energy Center, L.L.C., an application was filed on January 30, 2001 with the Florida Department of Environmental Protection (DEP), for a 510 megawatt (MW) dual fuel peaking power plant. The draft permit was received from DEP on June 7, 2001 and the Notice of Intent published in the South Florida Sun-Sentinel on June 20, 2001. The following are comments we would like you to consider in your Final Determination on this permit.

Page 1: Permittee should be "Deerfield Beach Energy Center, L.L.C.", not "Deerfield Beach Energy, L.L.C.".

Page 1: In the first paragraph, the project is listed as having four mechanical draft cooling towers. This should be *nine* mechanical draft cooling towers.

Page 3: The Notice of Intent was published in the South Florida Sun-Sentinel on June 20, 2001.

Page 4: Item 7 correctly points out the applicability of a BACT review for later phases of a phased construction project. However, the last sentence of this condition appears to go beyond the regulatory reach of this provision in which BACT can be reassessed for well-planned phases of a multi-phase project. If a truly independent project, from a physical, operational and economic standpoint, is proposed at the facility, that project should not be subject to PSD BACT if it does not meet the definition of a "major modification", pursuant to 40 CFR 51.166(b)(2)(i).

Page 5: Condition 8 appears to be inconsistent with Condition 6. Condition 6 allows up to 18 months to start construction and also allows up to 18 months of interruption in the construction. If the permit were to be issued on 8/1/01 and we started construction 18 months later (2/1/03), we would have to complete physical construction in only 5 months (i.e., 6/30/03, according to condition 8). We recommend that this condition be eliminated, since Condition 6 is sufficient to insure that a timely program of construction is achieved.

Page 6: Condition 2.c, It should be noted that the fuel heater (with a maximum heat input rating of 13 mmBtu/hour) is subject to Subpart Dc of 40 CFR 60.

Page 6: Condition 2.d, "four" should be changed to "nine".

Page 7: Condition 10, 2nd paragraph. A clarification is requested. It is our interpretation that the first 12-month compliance period with the 500 hour limit would be from 1/1/05 to 12/31/05. If this is the case, we recommend that a footnote be added to the permit to confirm this. If this is not the case, we would like the opportunity to discuss this with you further.

Page 7: Condition 10, 3rd paragraph The condition limiting daily operation on fuel oil to 50 hours over both sites needs to be modified to account for the possibility that one of the sites may not be developed. Since regional haze is affected by more than one pollutant, we suggest that the daily emissions combined for Pompano and Deerfield used as input to CALPUFF are made not-to-exceed limits for a 24-hour period. Compliance with the emission limits for NOx will be determined by CEMS, SO₂ by use of Appendix D to Part 75 procedures, and PM10 by the permit hourly limits times hours of operation. The limiting CALPUFF modeling conditions assume a total of 50 turbine-hours of oil use and 94 turbine-hours of natural gas use. This corresponds to the following daily emissions; NOx: 22,395 lbs; SO₂: 6,205 lbs; PM10: 1,696 lbs. It is proposed that these limits apply to any 24-hour period.

Page 9: Condition 15b, limiting the NOx emissions on distillate firing to 36 ppm is not acceptable. We cannot obtain a guarantee from GE to meet this limit. Notwithstanding the JEA data initial test data, we are aware of no data that demonstrate 36 ppm can be continuously achieved over a long period of time. Compliance test data from the Polk Power Station Unit 2, cited by DEP in the BACT determination, show that at 100 percent load, the NOx emissions were 41.5 ppm, which is barely within compliance with the 42 ppm limit. In addition, SC 15(c)(NOx Reduction Plan, page 9) requires a testing and engineering program to establish the lowest NOx emissions practicable on oil, if oil firing exceeds 500 hours per unit. This condition clearly satisfies the Department's concern that there may be no remedy if it's determined that the unit can achieve lower NOx levels on oil.

Page 9: Condition 17 sets the VOC emission limit to 1.4 ppmvd, uncorrected and 3 lb/hour for both gas and oil. As shown in Appendix B of the application, the basis for the emission calculations is 1.4 ppmvw, which corresponds to 1.6 ppmvd. Therefore, the limit should be changed from 1.4 to 1.6 ppmvd.

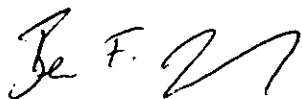
Page 12: Condition 26 states that initial testing should be conducted with 60 days of achieving 90% of permitted capacity, but no later than 180 days of initial operation of each unit. Could you confirm that 90% of permitted capacity refers to 90% of the maximum allowable heat input to each turbine specified in condition 5 on page 6 of the permit?

Page 16: In Condition 29g the requirement is made that monitor availability shall not be less than 95% in any quarter. Is this 95% of all hours in the quarter or 95% of the hours that the facility operates? The latter interpretation could set up an almost impossible standard for a peaking facility, as a few hours of downtime in a quarter of minimal plant use would make the 95% requirement impossible to meet. We request that this condition apply only to quarters with at least 168 operating hours (i.e., the definition of "QA Operating Quarter" per 40 CFR 72.2).

Page 17: Conditions 32 to 36 identify the Broward County DPEP as the regulating agency to receive required reports, tests and notifications, but Item 1 in Section II (Administrative Requirements) also requires copies of all such reports to be submitted to the Department's SE Regional District Office. In order that the proper authorities are included, we suggest adding to Conditions 32 to 36 a note that the SE District Office be provided copies of all required reports and notifications.

If you have any questions in regards to these comments, please contact Dave Kellermeyer of Enron North America at (713) 853-3161.

Sincerely
Deerfield Beach Energy Center



Ben F. Jacoby
Attorney-in-Fact

cc: Bob Iwanchuk, ENSR
Scott Osbourn, ENSR
Dave Kellermeyer, Enron North America
Steve Krinsky, Enron North America

D. Galbraith ✓
C. Melindary ✓
D. Bower, Broward Co. ✓
L. Goldmann, SED ✓
J. Worley, EPA ✓
G. Benayal, NPS ✓

Chair, Broward County Commission
Mayor, Coconut Creek ✓
Mayor, Coral Springs ✓
Broward County O&C ✓
Coconut Creek City Attorney ✓
Coral Springs City Attorney ✓

RECEIVED

JUL 16 2001

DIVISION OF AIR
RESOURCES MANAGEMENT

NOTICE OF PUBLIC MEETING

The Department of Environmental Protection announces a public meeting to which all persons are invited:

DATE AND TIME: Monday, July 30, 2001 from 6:00 p.m. until 8:00 p.m.

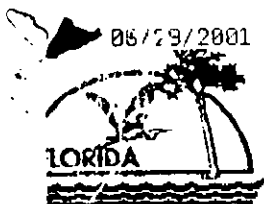
PLACE: Deerfield Beach City Commission Chambers, 150 Northeast 2nd Avenue, Deerfield Beach, Florida 33441

PURPOSE: To accept public comments and provide status of the Department's Intent to Issue an Air Construction Permit to Deerfield Beach Energy Center, L.L.C. (an affiliate of Enron North America), to construct a nominal 510 megawatt simple cycle electrical power generating plant immediately East of the Florida Turnpike and immediately North of Northwest 48th Street (Hilton Road) in Deerfield Beach, Broward County. The location is between the Lakeview Community to the North and the Waste Management Landfill to the South. The permitting action is subject to the Department's rules for the Prevention of Significant Deterioration of Air Quality (PSD) and Best Available Control Technology (BACT).

A copy of the agenda and the Department's proposed permit and supporting documents can be obtained by contacting: Debbie Galbraith, Department of Environmental Protection at 2600 Blair Stone Road, MS 5505, Tallahassee, Florida 32399, phone (850) 921-9537, or by phoning the Bureau of Air Regulation's New Source Review Section at (850) 921-9505.

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting is asked to advise the agency at least 48 hours before the meeting by contacting the Personnel Service Specialist in the Bureau of Personnel at (850) 488-2996. If you are hearing or speech impaired, please contact the agency by calling (800) 955-8771 (TDD).



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OGC WASTE-AIR SECT.

PAGE 01

Department of Environmental Protection

Jeb Bush
Governor

Marjory Stoneman Douglas Building
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

David B. Struhs
Secretary

FAX COVER SHEET

TO:

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FAX NUMBER:

921-3000

DATE OF TRANSMISSION:

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COMMENTS:

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

BROWARD COUNTY,

Petitioner,

vs.

STATE OF FLORIDA, DEPARTMENT
OF ENVIRONMENTAL PROTECTION

and

DEERFIELD BEACH ENERGY
CENTER, L.L.C. (AN AFFILIATE OF
ENRON NORTH AMERICA),

Respondents.

DEP File No. 0112534-001-AC
(PSD-FL-314)

MARTHA
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COPY

**BROWARD COUNTY'S
PETITION FOR ADMINISTRATIVE HEARING**

Petitioner, BROWARD COUNTY, a political subdivision of the state of Florida ("COUNTY"), hereby files this Petition for Administrative Hearing challenging the Department of Environmental Protection's ("DEP") Intent to Issue Air Construction Permit, DEP File No. 0112534-001-AC (PSD-FL-314) ("Permit") to Deerfield Beach Energy Center, L.L.C., an affiliate of Enron North America ("ENRON"). As grounds for this Administrative Hearing, COUNTY states:

1. COUNTY is a political subdivision of the state of Florida comprising approximately 1,197 square miles in southeast Florida, with its offices located at 115 South Andrews Avenue, Fort Lauderdale, Florida 33301.

2. DEP is the permitting authority in this proceeding and has its offices located

Post-It® Fax Note	7671	Date	6-27	Pages	10
To	DEP	From	Jose Gonzalez		
Co./Dept.		Co.			

JUN-27-01 15:20 FROM: COUNTY ATTY

954-357-6968

TO: 8509213000

PAGE: 002/010

at 400 North Congress Avenue, West Palm Beach, Florida 33415 and 111 S. Magnolia Drive, Suite 4, Tallahassee, Florida 32301.

3. ENRON has its offices located at 1400 Smith Street, Houston, Texas 77002-7631.

4. ENRON has submitted an application to DEP for the construction of a five hundred ten (510) megawatt power plant immediately east of the Florida Turnpike and north of Hilton Road (Northwest 48th Street) in Deerfield Beach, Florida.

5. On or about June 13, 2001, COUNTY received a copy of DEP's Public Notice of Intent to Issue Air Construction Permit for ENRON's proposed power plant facility.

BACKGROUND

6. ENRON is proposing to construct and operate a five hundred ten (510) megawatt electric generating facility. This facility will be known as the Deerfield Beach Energy Center and will consist of three (3) one hundred seventy (170) megawatt dual-fuel combustion turbine-electrical generators, two (2) fuel oil storage tanks, four (4) wet mechanical draft cooling towers and a natural gas-fired heater.

7. If approved, fuel oil will be permitted at the power plant for up to an average one thousand (1,000) hours per installed unit during any consecutive twelve (12) month period.

8. Currently, there are at approximately forty (40) facilities within five (5) miles of ENRON's proposed facility that are subject to federal, state or local air pollution regulations and are known air pollution sources.

9. In addition, the proposed power plant is in close proximity to the Arthur R.

Marshall Loxahatchee National Wildlife Refuge, administered by the U.S. Department of the Interior, and the Florida Everglades, specifically, Conservation Area No. 2, which is administered by the State of Florida Fish and Wildlife Conservation Commission, and COUNTY parks, schools and residential areas.

10. The proposed plant is required to use best available control technology ("BACT") to limit the emissions of nitrogen oxide ("NO_x"), carbon monoxide ("CO"), sulfur dioxide ("SO₂"), sulfuric acid mist, and particulate matter with an aerodynamic diameter less than ten (10) microns ("PM₁₀"), pursuant to Rule 62-212.400(2)(f), F.A.C.

11. Rule 62-210.200(38), F.A.C. defines BACT as "an emission limitation...based on the maximum degree of reduction for each pollutant emitted which the Department, on a case by case basis, taking into account energy, environmental and economic impact, and other costs, determines is achievable through application of production processes and available methods, systems and techniques (including fuel cleaning or treatment or innovative fuel combustion techniques) for control of such pollutant."

12. In determining BACT, the Department shall give consideration to, among others, "all scientific, engineering, and technical material and other information available to the Department," "the emission limiting standards or BACT determination of any other state," and "the social and economic impact of such technology." Rule 62-212.400(6), F.A.C.

SUBSTANTIAL INTEREST

13. COUNTY, through its Board of County Commissioners, represents 1.4 million residents of Broward County, including those within Deerfield Beach, Pompano Beach,

Coconut Creek, Coral Springs and in the area adjacent to and affected by the building and operation of the power plant.

14. Tradewinds Park, one of the COUNTY's largest parks at 599 acres, is within 2 miles of ENRON's proposed facility. The park contains a 31.2 acre wilderness area with plant species characteristic of both a upland community and a wetland basin swamp habitat. This wilderness area provides an urban refuge for many native animals including osprey, gopher tortoise and bobcat. Tradewinds Park also contains Butterfly World, an attraction which contains the largest single butterfly habitat in the United States, a hummingbird aviary, and gardens.

15. Quiet Waters Park, a 430 acre COUNTY park is also within two miles of the proposed facility. Quiet Waters Park has facilities for swimming, water skiing, fishing, camping and an interactive children's water playground.

DISPUTED ISSUES OF LAW AND FACT

16. The COUNTY will demonstrate to DEP that ENRON's proposed BACT limits for the turbines, fuel oil heater, tanks, and cooling towers, accepted by DEP, are not consistent with the definition of BACT in Rule 62-210.200(38), F.A.C., and the requirements of Rule 62-212.400(5), F.A.C., as specifically set forth below. DEP's BACT determinations do not recognize the much lower limits currently being permitted in other states, nor do they address the social and economic impacts to neighboring properties by failing to appropriately limit emissions from the facility.

- a. The draft permit establishes BACT for No_x from the gas turbines as 9 ppmvd at 15% O_2 on gas, achieved with dry low No_x combustors and 36 ppmvd at

15% O₂ on fuel oil, achieved with wet injection and limited fuel usage. Compliance would be based on data collected from the continuous emission monitoring system. Permit, Section III, Subsection 15. Other states have permitted a large number of simple cycle peaking power plants with NO_x limits of 2 to 5 ppmvd at 15% O₂ on gas using SCR, XONON, or SCONOX and 5.9 to 13 ppmvd on oil, achieved with wet injection and SCR. Lower limits have been achieved in practice. A much lower NO_x limit should be established for the turbines, consistent with the permitting history in other states and pursuant to Rule 62-12.400(2)(f), F.A.C.

- b. The draft permit establishes BACT for CO for the gas turbines as 9 ppmvd on gas and 20 ppmvd on oil, achieved with good combustion. Compliance would be based on a 3 hour test average. Permit, Section III, Subsection 16. Other states have permitted simple cycle peaking powerplants with CO limits of 2 to 6 ppmvd at 15% O₂ on oil and gas, achieved using an oxidation catalyst. Much lower limits have been demonstrated in source tests and with continuous emission monitors. As a result, a much lower CO limit should be established for the turbines and that continuous compliance be demonstrated with a continuous emission monitor.
- c. The draft permit indicates that the facility includes one 2.5 million gallon fuel oil storage tank, one 0.6 million gallon fuel oil storage tank, one 13 million Btu per hour gas-fired fuel heater, and four wet mechanical draft cooling towers. The draft permit contains no BACT determination, emission limits or

monitoring requirements for these sources, even though they emit criteria and hazardous air pollutants. These sources, although individually minor, must use BACT and be regulated by permit, pursuant to Rule 62-210.200(112), F.A.C., which defines a facility as "all of the emissions units which are located on one or more contiguous or adjacent properties, and which are under the control of the same person (or persons under common control)." As a result, the Department should conduct a formal BACT analysis for these minor sources and revise the permit to include appropriate emission limits and monitoring requirements.

17. The draft permit and files do not identify any other emission sources at the facility. However, power plants should additionally include an emergency firewater pump and emergency generator, run by diesel internal combustion engines. The diesel exhaust from any such engines are a great concern to the COUNTY. Thus, the COUNTY requests that the DEP investigate whether emergency diesel engines would be used and if so, that these be subject to a formal BACT analysis and permit limits, pursuant to Rule 62-210.200(112), F.A.C.

18. The power plant proposes to use distillate oil as a backup fuel for an average of up to 1,000 hours per installed unit. Permit, Section III, Subsection 10. The combustion of distillate in the turbines would produce "diesel exhaust", which is recognized by the U.S. Environmental Protection Agency ("EPA") and California as a potent human carcinogen and respiratory irritant. The COUNTY is deeply concerned about the impact of these emissions, as well as others, set out below, on the residents of Broward County.

19. The definition of BACT in Rule 62-201.200(38), F.A.C. and implementing EPA guidance in the NSR Manual (EPA, New Source Review Workshop Manual, October 1990, Section IV.D.3) require taking into account the environmental impacts during the top-down BACT process. DEP is further required to evaluate the social and economic impacts of its decisions, pursuant to Rule 62-212.400(6)(a)4, F.A.C. The COUNTY is deeply concerned about the impact of the power plant on the natural life at its Tridewinds Park, including Butterfly World, Loxahatchee State Park and the Florida Everglades beyond just the boundaries of the National Park. COUNTY is also concerned about the social and economic impact of placing this power plant as currently permitted in close proximity to residential areas and public recreation and natural areas and how it will affect their use and enjoyment by the public as well as the obvious health and contamination concerns raised herein. Additionally, fuel oil delivery via trucks will increase traffic and pollutants in the area of the subject facility. These factors have not been adequately considered in ENRON's application or DEP's evaluation thereof.

20. The draft permit establishes BACT for SO₂ and sulfuric acid mist with natural gas and low sulfur fuel oil without performing any analyses, evaluating alternatives or considering the substantial health impacts that may result from this choice. The COUNTY maintains that the use of distillate oil fuel in a densely populated area, as is the area surrounding the proposed plant, is inappropriate, has far-reaching social and economic implications for its residents, and is not consistent with Rule 62-212.400(6)(a).

21. The draft permit establishes BACT for SO₂ and sulfuric acid mist as 0.05% for fuel oil. Notwithstanding the health issues, 0.05% sulfur distillate is not BACT for SO₂.

and sulfuric acid mist when firing oil. A sulfur content of 0.05% is equivalent to 5,000 parts per million sulfur by weight ("ppmw"). Lower sulfur distillate containing only 30 ppmw sulfur, is currently available on the east coast of the United States. Further, the EPA has adopted stringent fuel regulations that limit the sulfur content of diesel fuel to 15 ppmw. These regulations go into effect in June 2006 (Federal Register, v. 66, no. 12, January 18, 2001, p. 5002, et seq.) At which point ultra low sulfur diesel will be widely available in the Florida market. The COUNTY recommends the permit be modified to eliminate the use of distillate oil. In the short term, a back up fuel such as liquefied natural gas or propane or a noninterruptible gas supply contract for curtailments should be required, until such time as the capacity constraints on the Florida Gas Transmission Pipeline are alleviated, but no later than January 2003. If distillate oil is retained, its use should only be permitted when ENRON can demonstrate that natural gas cannot be delivered to the subject facility. Additionally, diesel exhaust emissions should be rigorously controlled and 30 ppmw S for diesel fuel be required on start up and 15 ppmw diesels when it becomes available, but no later than June 2006.

22. The permit contains no limits on the number of startups, shutdowns nor on the emissions during these periods. During startups and shutdowns, combustion temperatures and pressured change rapidly, resulting in inefficient combustion and much higher emissions of NO_x, CO, and VOCs than during steady state operation. The COUNTY is concerned that virtually unlimited and uncontrolled startup and shutdown emissions will result in significant health impacts in the downwind areas. Emissions of formaldehyde, for example, can increase by over a factor of 500 during startups, compared to full load

operation. If each turbine experienced as few as 100 startups per year, lasting only ten minutes, the emissions of formaldehyde would exceed 10 tons per year and require the use of maximum achievable control technology ("MACT") pursuant to Rule 62-204.800, F.A.C.

23. Omitting limits on startup and shutdown emissions is not consistent with requirements of the Clean Air Act. The U.S. EPA has consistently defined startup and shutdown to be part of the normal operation of a source. The EPA has also consistently concluded that these emissions should be accounted for in the design and implementation or the operating procedure for the process and control equipment. EPA has concluded that without clear definition and limitation, these automatic exemption provisions for startups and shutdowns could effectively shield excess emissions arising from poor operation and maintenance or design, thus precluding attainment. Accordingly, these emissions should have been considered in the BACT analysis and the related health impact address in conjunction with the environmental review requires pursuant to Rule 62-210.200(38), F.A.C. Permits issued by other states include limits on startup and shutdown emissions. Thus the COUNTY recommends that a permit condition be included that specifically limits the number, duration, and emissions during startups and shutdowns, to comply with BACT and MACT.

WHEREFORE, Petitioner, BROWARD COUNTY respectfully requests an administrative evidentiary hearing, de novo, pursuant to Chapter 120, Florida Statutes, to resolve disputed issues of material fact and law set forth herein. COUNTY requests that

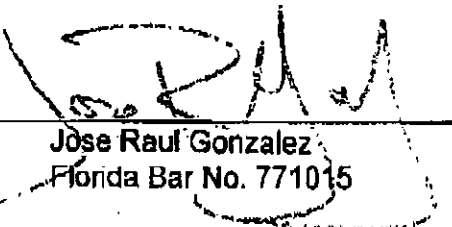
DEP refrain from issuing Permit No. PSD-FL-314 (0112534-001-AC) or in the alternative amend the Permit to require natural gas as the exclusive fuel source for the proposed plant and prohibit the use of diesel oil fuel and to provide such other relief as may be appropriate, including the inclusion of permit conditions in compliance with BACT requirements.

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. mail and facsimile to Office of General Counsel, Florida Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, FL 32399-3000 and a copy mailed to Debbie Orshefsky, Attorney for Deerfield Beach Energy Center, LLC, at Greenberg Traurig, 515 East Las Olas Boulevard, Suite 1500, Fort Lauderdale, FL 33301 this 27th day of June, 2001.

EDWARD A. DION
County Attorney for Broward County
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By


Jose Raul Gonzalez
Florida Bar No. 771015

By


Maite Azcoltia
Florida Bar No. 897868

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CITY OF COCONUT CREEK,

Petitioner,

v.
STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

DEP File No. 0112534-001-AC
(PSD-314)

and

DEERFIELD BEACH ENERGY, L.L.C.
(AN AFFILIATE OF ENRON NORTH AMERICA),

Respondents.

PETITION FOR
ADMINISTRATIVE HEARING

Petitioner, City of Coconut Creek, a Florida municipal corporation ("CITY"), hereby files this Petition for Administrative Hearing challenging the Department of Environmental Protection's ("DEP") Intent to Issue Air Construction Permit for Permit No. 0112534-001-AC (PSD-314) ("Permit") to Deerfield Beach Energy, L.L.C., an affiliate of ENRON North America ("ENRON"), which would allow the construction of three (3) one hundred seventy (170) megawatt dual-fuel combustion turbine-electrical generators and ancillary equipment (peaking power plant) at a location in Deerfield Beach immediately East of the Turnpike and North of Hilton Road, (Northwest 48th Street), Broward County, Florida. As grounds for this Administrative Hearing, CITY states:

1. CITY is a Florida municipality comprising approximately 11.7 square miles in the central northern end of Broward County.

2. The DEP is the permitting authority in this proceeding and has its offices located at 400 North Congress Avenue, West Palm Beach, Florida 33416 and 111 S. Magnolia Drive, Suite 4, Tallahassee, Florida 32301.

3. Deerfield Beach Energy, L.L.C. has its offices located at 1400 Smith Street, Houston, Texas 77002.

SUBSTANTIAL INTEREST

4. CITY is a Florida municipality with over 40,000 residents, located within the immediate adjacent area that will be affected by the building of a power plant. As a result, CITY has a substantial interest in this proceeding. CITY has residents who live within 300 feet of the proposed location, a fact which has been overlooked by the DEP.

BACKGROUND

5. On June 13, 2001, the CITY received a copy of DEP's Public Notice of Intent to Issue Air Construction Permit for ENRON's proposed power plant facility.

6. On January 30, 2001, ENRON filed its Application with the Broward County Department of Planning and Environmental Protection.

7. On or about May 16, 2001, the Department of Planning and Environmental Protection found that the Application was complete.

8. ENRON is proposing to construct three (3) one hundred seventy (170) megawatt dual-fuel combustion turbines with inlet chillers, three (3) mechanical draft cooling towers, three (3) eighty (80) foot stacks, a natural gas heater, a two and one half (2 ½) million gallon fuel oil storage tank, and a 0.6 million gallon fuel oil storage tank at the site.

9. If approved, fuel oil will be permitted at the power plant for up to three thousand (3,000) hours per year or one hundred twenty-five (125) days per year.

10. The following regional producers of noxious emissions are located within the immediate vicinity of ENRON's proposed cogeneration power plant facility: (1) Broward County North Regional Wastewater Treatment Plant; (2) Florida Power and Light Electrical Substation; (3) Broward County Central Sanitary Landfill; (4) Wheelabrator Resource Recovery Facility; (5) Broward County Hazardous Materials Receiving Facility; and (6) Waste Management Trash Transfer Station. These large regional significant sources of noxious emissions, which are publicly or privately owned, are immediately adjacent to the eastern boundary of the CITY.

11. In addition, the proposed power plant is within thirteen (13) miles of the Arthur R. Marshall Loxahatchee National Wildlife Refuge, administered by the U.S. Department of the Interior, and within ten (10) miles of the Florida Everglades, specifically, Conservation Area No. 2, which is administered by the State of Florida Fish and Wildlife Conservation Commission.

12. CITY has received no indication that an Environmental Impact Statement/Evaluation has been undertaken for this proposed use.

13. Further, from a review of the available documentation, it appears that a quantitative cumulative air quality analysis has not been performed with regard to the facilities referenced in Paragraph 10 above. The issuance of a Federal Permit for the Prevention of Significant Deterioration (PSD) subjects the facility to the requirements of the National Environmental Policy Act (NEPA) (specifically regulations in 40 CFR Part 1508). Under NEPA, the cumulative environmental effects of a proposed project and

other significant sources must be considered in an environmental assessment or an environmental impact statement.

14. CITY's experts believe that a quantitative cumulative air quality analysis should be performed in order to satisfactorily demonstrate that the combined emissions from the sources referenced in Paragraph 10 above do not cause a contravention of applicable air quality standards.

DISPUTED ISSUES OF FACT AND LAW

15. Whether an Environmental Impact Statement/Evaluation should have been conducted by ENRON prior to the Notice of Intent to Issue Air Construction Permit.

16. Whether the assessment of environmental impacts associated with industrial-related activities, including those on ambient air quality, must be performed prior to the issuance of a permit.

17. Whether the DEP erroneously determined that the proposed location was remote from residential areas:

(i.) On page TE-7 of the Technical Evaluation and Preliminary Determination, an out-of-date Figure 5 depicts the vicinity of the Proposed Enron DEC Project. The property immediately west of the proposed facility immediately West of the Turnpike is shown as vacant. The Technical Evaluation and Preliminary Determination discussion is silent as to the use of property West of the Turnpike. Exhibit "A" attached hereto and made a part hereof, is a current map of the vicinity that clearly demonstrates that the property immediately West of the Turnpike is residential, and known as the Banyan Trails Plat. Construction in that area is on going, with Certificates of Occupancy for residential uses issued to date numbering 123 single family units, and 11 buildings of

multi-family use totaling 236 units. The multi-family units are targeted for low-income tenants, and will total 300 units at build-out. Building permits and other development orders authorize a total build-out of the Banyan Trails Plat of 830 dwelling units, all of which are either completed, under construction, or applications for building permits have been received by the CITY.

(ii.) On page TE-8 of the Draft Permit, the following erroneous statement is made: "The nearest residential communities are the Lakeview development immediately North and Northeast of the proposed site and Crystal Lake to the West of Powerline Road." In fact, the Waterways development is immediately North of the proposed site, the Independence Bay development is immediately Northeast of the proposed site, and the Banyan Trails development is immediately West of the Project, with only 300 feet of Turnpike right-of-way between Banyan Trails and the proposed site.

18. Whether the impact upon the CITY of the prevailing wind direction from the proposed facilities has been considered and factored into the decision to issue a Permit:

(i) On page TE-8 of the Technical Evaluation and Preliminary Determination, Figure 8 depicts the Broward County Wind Rose, and states that the prevailing wind is predominately from the East. The DEP has not considered the impact the prevailing wind will have on the residential property immediately to the West of the proposed facility.

19. Whether it is necessary for a quantitative cumulative air quality analysis to be performed prior to the issuance of a Permit to ensure that the combined emissions

from the various sources in the area do not cause a contravention of applicable air quality standards:

- (i) The proposed facility is anticipated to emit approximately 572 tons per year (tpy) of NO₂, 171 tpy of CO, 55 tpy of PM/PM₁₀, 166 tpy of SO₂, 18 tpy of VOC, and 25 tpy of sulfuric acid mist. The facility will also emit trace quantities of total fluorides (0.09 tpy), mercury (0.003 tpy) and lead (0.003 tpy). Emissions of cumulative hazardous air pollutants (HAP₅) up to 5 tpy.
- (ii) The issuance of Federal Permits such as Prevention of Significant Deterioration subjects the proposed power plant facility to the requirements of the National Environmental Protection Act.
- (iii) Under the National Environmental Protection Act, the cumulative environmental effects of a proposed project must be considered in an environmental assessment.

20. Whether DEP's Intent to Issue Air Construction Permit was based on erroneous and misleading information concerning the proposed power plant's distance to environmentally sensitive lands and, therefore, should be reassessed:

- (i) The Technical Evaluation and Preliminary Determination provides in Paragraph 2 entitled "Facility Information" that the proposed power plant is located approximately sixty (60) kilometers (37.2 miles) from the Everglades National Park.
- (ii) Figure 1, which purports to bolster this misleading statement may be accurate on its face as to the distance from the Park entrance, but a review

of Figure 1 indeed shows the Arthur R. Marshall Loxahatchee National Wildlife Refuge as an unidentified green area immediately West of the marked City of Coral Springs, which is immediately West of the CITY. A correct map of the Conservation Areas potentially affected by the proposed power plant, including the National Wildlife Refuge, demonstrates that the affected ecosystems are far closer than stated. Please See Exhibit "B", attached hereto and made a part hereof.

- (iii) The pristine, environmentally sensitive ecosystem of the Loxahatchee National Wildlife Refuge is within thirteen (13) miles of the proposed power plant, as it is located immediately adjacent to Everglades Conservation Area No. 2, to the North.
- (iv) While the public entranceway of Everglades National Park may be over thirty-seven (37) miles away from the proposed power plant, the environmentally sensitive ecosystem of the Florida Everglades, specifically Conservation Area No. 2 is within ten (10) miles of the proposed site.
- (v) The proximity of these ecosystems was not taken into account by the DEP in their review of the proposed location.
- (vi) The Technical Evaluation and Preliminary Determination, in paragraph 6.5.7, states that the National Park Service reviewed the modeling and advised that it did not anticipate any adverse impact at Everglades National Park. However, the Technical Evaluation and Preliminary Determination is silent as to whether or not the Department of the Interior,

which administers the National Wildlife Refuge, or the State of Florida Fish and Wildlife Conservation Commission, which administers the Everglades Protection Areas, were likewise consulted.

- (vii) There has been no analysis if the proposed project would conflict with the goals, policies and objectives of the "Everglades Forever Act."

21. The project must use best available control technology ("BACT") to limit the emissions of nitrogen oxide ("NOx"), carbon monoxide ("CO"), volatile organic compounds ("VOCs"), sulfur dioxide ("SO₂"), sulfuric acid mist, and particulate matter with an aerodynamic diameter less than ten (10) microns ("PM10"), pursuant to Rule 62-212.400(2)(f), F.A.C.

22. Rule 62-210.200(38), F.A.C. defines BACT as "an emission limitation...based on the *maximum* degree of reduction of each pollutant emitted which the DEP, on a case by case basis, taking into account energy, environmental and economic impacts, and other costs, determines is achievable through application of production processes and available methods, systems and techniques (including fuel cleaning or treatment or innovative fuel combustion techniques) for control of each such pollutant." (emphasis added)

23. In determining BACT, the DEP shall give consideration to, among others, "all scientific, engineering, and technical material and other information available to the DEP," "the emission limiting standards or BACT determination of any other state," and "the social and economic impact of such technology." Rule 62-212.400(6), F.A.C.

24. The CITY believes and will demonstrate to the DEP that the applicant's proposed BACT limits (or absence thereof) for the turbines, fuel oil heater, tanks, and

cooling towers, accepted by the DEP, are not consistent with the definition of BACT in Rule 62-210.200(38), F.A.C. and the requirements in Rule 62-212.400(6), F.A.C. as specifically set forth below. The DEP's BACT determinations do not recognize the much lower limits currently being permitted in other states, nor do they address the social and economic impacts to the CITY for failing to appropriately limit emissions from the facility.

25. The Draft Permit establishes BACT for NO_x from the gas turbines as 9 ppmvd at 15% O₂ on gas, achieved with dry low NO_x combustors and 42 ppmvd at 15% O₂ on fuel oil, achieved with water injection. Continuous compliance would be demonstrated based on a 24-hour block average. (Permit, § III.13.) Other states have permitted a large number of simple cycle peaking power plants with NO_x limits of 2 to 5 ppmvd at 15% O₂ on gas using SCR, XONON, or SCONOX and 5.9 to 13 ppmvd on oil, achieved with water injection and SCR. Continuous compliance is demonstrated based on 1-hour to 3-hour rolling averages. These lower limits have been achieved in practice. The CITY recommends a much lower NO_x limit be established for the turbines, consistent with the permitting history in other states.

26. The Draft Permit establishes BACT for CO for the gas turbines as 9 ppmvd @ 15% O₂ on gas and 20 ppmvd @ 15% O₂ on oil, achieved with good combustion. Compliance would be demonstrated based on a 3-hour source test. (Permit, § III.14.) Other states have permitted simple cycle peaking power plants with CO limits of 2 to 6 ppmvd at 15% O₂ on oil and gas, achieved using an oxidation catalyst. Much lower limits have been demonstrated in source tests and with continuous emission monitors. The CITY believes a much lower CO limit should be established for the

turbines and that continuous compliance be demonstrated with a continuous emission monitor.

27. The Draft Permit establishes BACT for VOCs from the gas turbines as 2.8 ppmvd @ 15% O₂ on gas or oil, achieved with natural gas and good combustion. Compliance would be demonstrated based on a 3-hour source test. (Permit, § III.15.) Other states have permitted simple cycle peaking power plants with VOC limits of two (2) ppmvd at 15% O₂ on oil and gas, achieved using an oxidation catalyst. Much lower limits have been demonstrated in source tests. The CITY believes a much lower VOC limit should be established for the turbines.

28. The Draft Permit indicates that the facility includes one 2.5 million-gallon distillate storage tank, one 0.6 million-gallon distillate storage tank, one 13 MMBtu/hr gas-fired fuel heater, and four (4) mechanical draft cooling towers. (Permit, § III.2.) The Draft Permit contains no BACT determinations, emission limits, or monitoring requirements for these sources, even though they emit criteria and hazardous air pollutants. These sources, although individually minor, must use BACT and be regulated by permit, pursuant to Rule 62-210.200(112), F.A.C., which defines a facility as "all of the emissions units which are located on one or more contiguous or adjacent properties, and which are under the control of the same person (or persons under common control)." The CITY requests that the DEP conduct a formal BACT analysis for these minor sources and revise the permit to include appropriate emission limits and monitoring requirements.

29. The Draft Permit and files that were reviewed do not identify any other emission sources at the facility. However, power plants normally additionally include an

emergency firewater pump and emergency generator, run by diesel internal combustion engines. The diesel exhaust from any such engines are a great concern to the CITY. Thus, the CITY requests that the DEP investigate whether emergency diesel engines would be used and if so, that these be subjected to a formal BACT analysis and permit limits, pursuant to Rule 62-210.200(112), F.A.C.

30. The project proposes to use distillate oil as a backup fuel for an average of one thousand (1,000) hours per installed unit. (Permit, § III.7.) The combustion of distillate in the turbines would produce "diesel exhaust," which is recognized by the U.S. Environmental Protection Agency and California as a potent human carcinogen and respiratory irritant. The CITY is deeply concerned about the impact of these emissions, as well as others, set out below, on the residents of Coconut Creek.

31. The definition of BACT in Rule 62-210.200(38) and implementing EPA guidance in the NSR Manual (EPA, New Source Review Workshop Manual, October 1990, Section IV.D.3) require taking into account the "environmental" impacts during the top-down BACT process. The DEP is further required to evaluate the social and economic impacts of its decisions, pursuant to Rule 62-212.400(6)(a) 4, F.A.C.

32. The Draft Permit establishes BACT for SO₂ and sulfuric acid mist as the use of pipeline natural gas and low sulfur (0.05%) fuel oil, without performing any analyses, evaluating alternatives, or considering the substantial health impacts that may result from this choice. The CITY maintains that the use of distillate fuel in a densely populated area is inappropriate, has far-reaching social and economic implications for its residents, and is not consistent with Rule 62-212.400(6)(a), F.A.C.

33. Notwithstanding the health issues, 0.05% sulfur distillate is not BACT for SO₂ and sulfuric acid mist when firing oil. A sulfur content of 0.05% is equivalent to five thousand (5,000) parts per million sulfur by weight ("ppmw"). Lower sulfur distillate, containing only thirty (30) ppmw sulfur, is currently available on the east coast. Further, the EPA has adopted stringent fuel regulations that limit the sulfur content of diesel fuel to 15 ppmw. These regulations go into effect in June 2006 (Federal Register, v. 66, no. 12, January 18, 2001, p. 5002 *et seq*), at which point ultra low sulfur diesel will be widely available in the Florida market.

34. Thus, the CITY requests the Permit be modified to eliminate the use of distillate oil. In the short-term, a backup fuel such as LNG or propane or a noninterruptible gas supply contract for curtailments should be required, until such time as the capacity constraints on the Florida Gas Transmission Pipeline are alleviated, but no later than January 2003. If distillate is retained, diesel exhaust emissions should be rigorously controlled and 30 ppmw diesel fuel be required on startup and 15 ppmw diesel when it becomes available, but no later than June 2006.

35. The Permit contains no limits on the number of startups/shutdowns nor on the emissions during these periods. During startups and shutdowns, combustion temperatures and pressures change rapidly, resulting in inefficient combustion and much higher emissions of NO_x, CO, and VOCs (including aldehydes) than during steady state operation.

36. The CITY is concerned that virtually unlimited and uncontrolled startup and shutdown emissions will result in significant health impacts in downwind areas of Coconut Creek, particularly during combined operation of the Pompano and Deerfield

Beach Energy Centers. Emissions of formaldehyde, for example, can increase by over a factor of 500 during startups, compared to full load operation. If each turbine experienced as few as 100 startups per year, lasting only 10 minutes, the emissions of formaldehyde would exceed 10 ton/yr and require the use of maximum achievable control technology ("MACT"), pursuant to Rule 62-204.800, F.A.C.


37. Omitting limits on startup and shutdown emissions is not consistent with requirements of the Clean Air Act. The U.S. EPA has consistently defined startup and shutdown to be part of the normal operation of a source. The EPA has also consistently concluded that these emissions should be accounted for in the design and implementation or the operating procedure for the process and control equipment. EPA has concluded that "[w]ithout clear definition and limitations, these automatic exemption provisions [for startups and shutdowns] could effectively shield excess emissions arising from poor operation and maintenance or design, thus precluding attainment." Accordingly, these emissions should have been considered in the BACT analysis and the related health impacts addressed in conjunction with the environmental review required pursuant to Rule 62-210.200(38), F.A.C. Permits issued by other states include limits on startup and shutdown emissions. Thus, the CITY believes that a permit condition be included that specifically limits the number, duration, and emissions during startups and shutdowns, to comply with BACT and MACT.

38. Broward County Code Section 27-178 requires pollution prevention planning for hazardous air pollutants, among other considerations. The project is not in compliance with this local regulation because emissions of diesel exhaust, formaldehyde, and other HAPs have not been assessed and mitigated. Therefore, the project is in

violation of Rule 62-210.300(4)(d)15.a F.A.C, which requires compliance with the requirements of Broward County.

WHEREFORE, Petitioner CITY, respectfully requests a formal administrative evidentiary hearing, de novo, pursuant to Chapter 120, Florida Statutes, to resolve disputed issues of material fact and law set forth herein be held, and that the DEP should not issue Permit No. 0112515-001-AC (PSD-FL-304) or, in the alternative, should prohibit diesel oil from being used at this facility. Additionally, startup/shutdowns should be limited and monitored. At a minimum, the DEP should, prior to issuing the Permit, require that ENRON provide a quantitative cumulative air quality analysis to ensure that the combined emissions from the various industries in the area do not cause a contradiction of applicable air quality standards.

Respectfully submitted this 26th day of June, 2001.


NANCY A. COUSINS
Assistant City Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original has been filed by facsimile, (850) 921-3000 and Federal Express at: Office of General Counsel, Department of Environmental Protection, 3900 Commonwealth Boulevard, Mail Station 35, Tallahassee, Florida 32399-3000 and a true and correct copy of the foregoing has been furnished by regular U.S. Mail to: Debbie Orshefsky, Attorney for Deerfield Beach Energy, L.L.C., Greenberg, Traurig, 515 E. Las Olas Boulevard, Suite 1500, Fort Lauderdale, Florida 33301 this 26 day of June, 2001.

CITY OF COCONUT CREEK
CITY ATTORNEY'S OFFICE



NANCY A. COUSINS

Assistant City Attorney

Florida Bar No. 224154

City of Coconut Creek

4800 West Copans Road

Coconut Creek, Florida 33063

(954) 973-6797

(954) 973-6790 (facsimile)

NAC/dk











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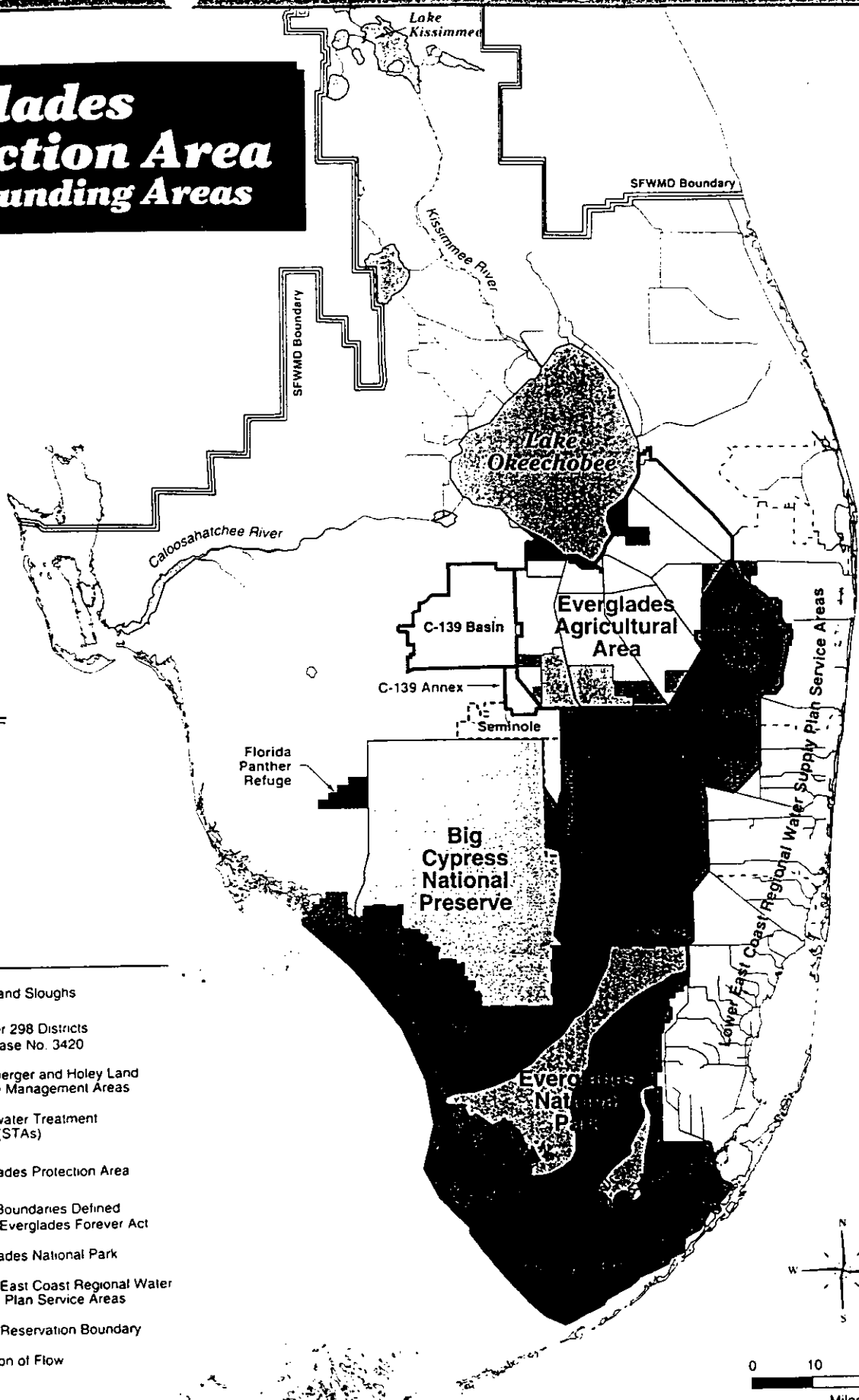
Everglades Protection Area & Surrounding Areas

EXHIBIT

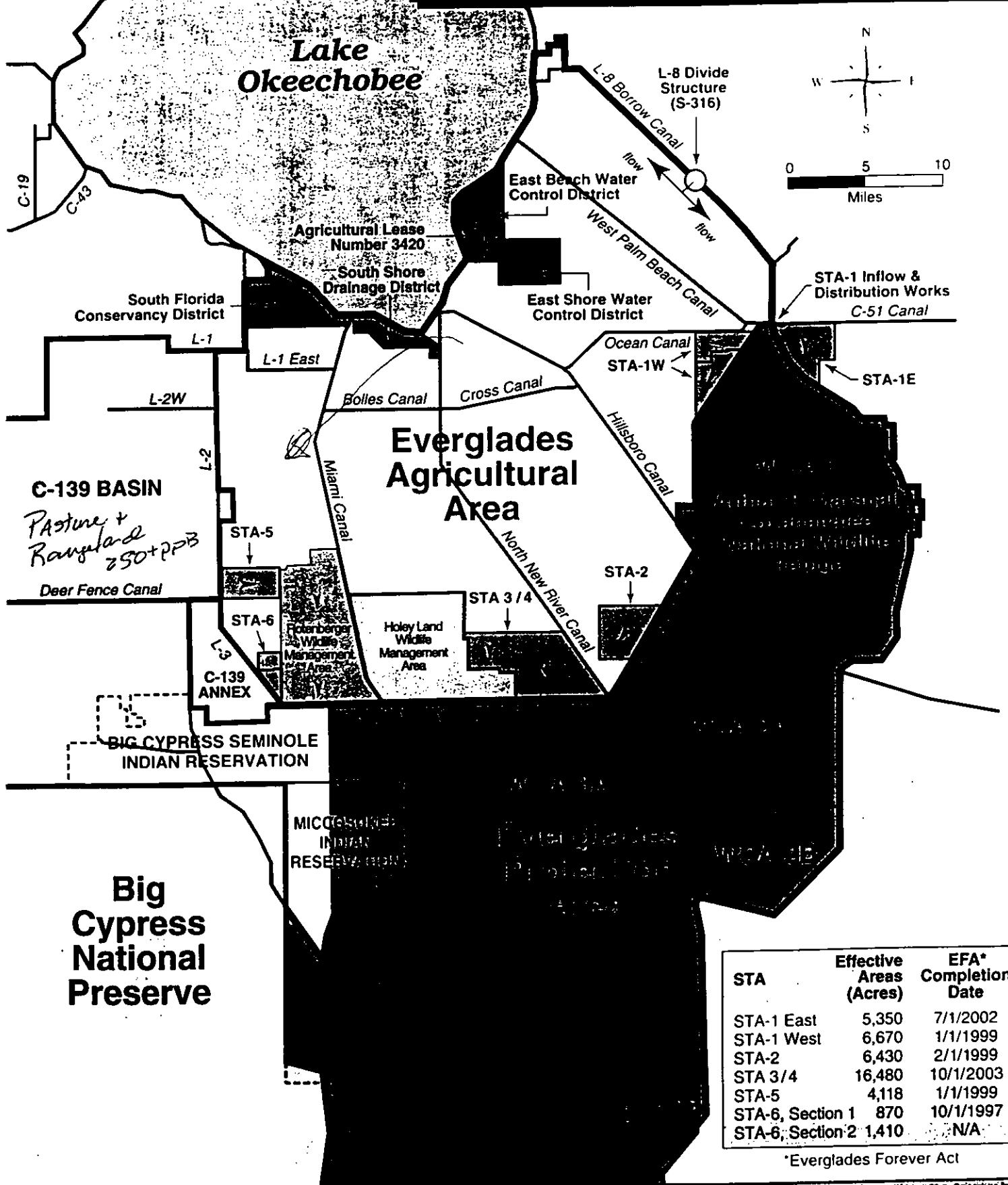
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LEGEND

-  Lakes and Sloughs
-  Chapter 298 Districts and Lease No. 3420
-  Rotenberger and Holey Land Wildlife Management Areas
-  Stormwater Treatment Areas (STAs)
-  Everglades Protection Area
-  Legal Boundaries Defined by the Everglades Forever Act
-  Everglades National Park
-  Lower East Coast Regional Water Supply Plan Service Areas
-  Indian Reservation Boundary
-  Direction of Flow



Overview of Everglades Construction Projects



STA	Effective Areas (Acres)	EFA* Completion Date
STA-1 East	5,350	7/1/2002
STA-1 West	6,670	1/1/1999
STA-2	6,430	2/1/1999
STA 3/4	16,480	10/1/2003
STA-5	4,118	1/1/1999
STA-6, Section 1	870	10/1/1997
STA-6, Section 2	1,410	N/A

*Everglades Forever Act

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

CITY OF CORAL SPRINGS,

Petitioner,

v.

Case No.:
FDEP File No. 0112534-001-AC
(PSD-FL-314)

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

And

DEERFIELD BEACH ENERGY CENTER, L.L.C.
(AN AFFILIATE OF ENRON NORTH AMERICA),

Respondents.

CITY OF CORAL SPRINGS' PETITION FOR
ADMINISTRATIVE HEARING

Petitioner, City of Coral Springs, a Florida municipal corporation ("City"), hereby files this Petition for Administrative Hearing challenging the Department of Environmental Protection's ("DEP") Intent to Issue Air Construction Permit for Permit No. 0112534-001-AC (PSD-FL-314) ("Permit") to Deerfield Beach Energy Center, L.L.C., an affiliate of ENRON North America ("ENRON") which would allow the construction of a five hundred ten (510) megawatt "peaking" power plant immediately east of the Turnpike and north of Hilton Road, Northwest 48 Street in Deerfield Beach, Broward County, Florida. As grounds for this Administrative Hearing, City states:

1. City is a Florida municipality comprising approximately 22.7 square miles in the northern end of Broward County.

2. The DEP is the permitting authority in this proceeding and has its offices located at 400 North Congress Avenue, West Palm Beach, Florida 33416 and 111 S. Magnolia Drive, Suite 4, Tallahassee, Florida 32301.

3. Deerfield Beach Energy Center, L.L.C. has its offices located at 1400 Smith Street, Houston, Texas 77002.

SUBSTANTIAL INTEREST

4. CITY is a Florida municipality with over 117,000 residents located within the immediate area which will be affected by the building of a power plant. As a result, City has a substantial interest in this proceeding.

5. As a Florida municipality, the City enjoys the powers expressly granted to it by Article 8 of the Constitution of the State of Florida. Specifically, Article 8, Section 2(b), entitled, "Powers," expressly enables municipalities to conduct municipal government, perform municipal functions and render municipal services, except as otherwise provided by law.

6. The City, as a Florida municipality, has the obligation to use its police power to regulate and provide for the public health, safety and welfare of its citizens, including the opportunity to afford its citizens light, air and opportunity for recreation.

7. As confirmed on Page TE-8 of the Draft Permit, the prevailing wind at the location of the proposed power plant ("Plant") is predominantly from the east. The City is located directly to the west of the proposed location of the Plant.

8. The City has a total of 735 acres of parks and has in excess of three hundred fifty (350) acres of Environmentally Sensitive Land as designated by the City's

Comprehensive Plan and approved and adopted by the Department of Community Affairs.

9. There can be no dispute that known carcinogens and irritants will be released from the proposed Plant. Due to the City's location, the City's parks, wetlands, species of plants and animals, and its citizens will be directly injured by the degradation of the environment.

10. The emissions from the proposed Deerfield Beach and Pompano Beach Energy Center Facilities will degrade regional air quality, including air quality in the City. The air in a region has limited carrying capacity, defined as the increment between current air quality and ambient air quality standards or significant impact levels.

11. Each new facility that locates in a region and emits pollutants will consume part of this carrying capacity. For example, the proposed Pompano Beach and Deerfield Beach Energy Center Facilities plus other existing sources, consume 80% of the 24-hour sulfur dioxide significant impact level,¹ thus severely limiting future potential growth in the region and greatly increasing the possibility that the carrying capacity will be exceeded.

12. Thus, the City has a direct interest in assuring that all pollution-emitting facilities that locate in the region and which affect air quality in the City use best available control technology to reduce pollution to the maximum extent required by law.

13. Further, Coral Springs currently has good air quality and is in attainment with all federal ambient air quality standards. The DEP, by failing to compel new industry to comply with federal and state pollution control laws, unlawfully allows

¹ Public Notice of Intent to Issue Air Construction Permit at 1.

regional air quality to be degraded, including air quality in the City, degrading the environment, including the City's parks and native species of plants and animals.

14. As a Florida municipality charged with preserving the health, safety and welfare of its citizens, the City has a substantial significant interest in protecting the air quality within its boundaries.

15. The nature of the injury is one in which this type of proceeding is designed to protect.

BACKGROUND

16. On or about June 13, 2001, the CITY received a copy of DEP's Public Notice of Intent to Issue Air Construction Permit for ENRON's proposed power plant facility.

17. On January 30, 2001, ENRON filed its Application with the DEP.

18. On or about May 17, 2001, the DEP found that the Application was complete.

19. On or about June 7, 2001, the DEP entered its Intent to Issue Air Construction Permit.

20. ENRON is proposing to construct three (3) one hundred seventy (170) megawatt dual-fuel combustion turbines with inlet chillers, three (3) mechanical draft cooling towers, three (3) eighty foot (80') stacks, a natural gas heater, a two and one half (2 ½) million gallon fuel oil storage tank, and a 0.6 million gallon fuel oil storage tank at the site.

21. If approved, fuel oil will be permitted at the power Plant for up to three thousand (3,000) hours per year.

22. The following uses are located within the immediate vicinity of ENRON's proposed cogeneration power plant facility: (1) Broward County North Regional Wastewater Treatment Plant; (2) Florida Power and Light Electrical Substation; (3) Broward County Central Sanitary Landfill; (4) Wheelabrator Resource Recovery Facility; (5) Hazardous Materials Receiving Facility; and (6) Waste Management Trash Transfer Station.

23. In addition, the proposed power Plant is within thirteen (13) miles of the Arthur R. Marshall Loxahatchee National Wildlife Refuge and within ten (10) miles of the Florida Everglades.

24. The proposed project is required to use best available control technology ("BACT") to limit the emissions of nitrogen oxide ("NOx"), carbon monoxide ("CO"), volatile organic compounds ("VOCs"), sulfur dioxide ("SO₂"), sulfuric acid mist, and particulate matter with an aerodynamic diameter less than ten (10) microns ("PM10"), pursuant to Rule 62-212.400(2)(f), F.A.C.

25. DEP's Intent to Issue Air Construction Permit was based on erroneous information concerning the proposed power Plant's distance to environmentally sensitive lands and, therefore, should be reassessed:

- (i) The Technical Evaluation and Preliminary Determination provides in Paragraph 2 entitled "Facility Information" that the proposed power Plant is located approximately sixty (60) kilometers (37.2 miles) from the Everglades National Park;
- (ii) The environmentally sensitive ecosystem of the National Wildlife Refuge is within thirteen (13) miles of the proposed power Plant;

- (iii) While the entrance of Everglades National Park may be over thirty seven (37) miles away from the proposed power Plant, the environmentally sensitive ecosystem of the Florida Everglades is within ten (10) miles of the proposed site; and
- (iv) The proximity of these ecosystems were not taken into account by the DEP in their review of the proposed location.

26. The City disputes the DEP's BACT determinations contained in Appendix BD. These determinations do not comply with federal or state law adopted pursuant to the Federal Clean Air Act and its amendments, which are designed to protect public health and welfare, including damage to and deterioration of property and hazards to air and ground transportation. See Clean Air Act, Section 101.

27. The DEP must require best available control technology for the Deerfield Beach Energy Center facility. Rule 62-210.200(38), F.A.C. defines BACT as "an emission limitation...based on the *maximum* degree of reduction of each pollutant emitted which the Department, on a case by case basis, taking into account energy, environmental and economic impacts, and other costs, determines is achievable through application of production processes and available methods, systems and techniques (including fuel cleaning or treatment or innovative fuel combustion techniques) for control of each such pollutant." (emphasis added). The DEP has not imposed BACT.

28. BACT is "an emission limitation...based on the maximum degree of reduction" that has been demonstrated. In determining BACT, the Department shall give consideration to, among others, "all scientific, engineering, and technical material and other information available to the Department," "the emission limiting standards or

BACT determination of any other state," and "the social and economic impact of such technology." Rule 62-212.400(6), F.A.C. As set forth below, the DEP has failed to identify the "maximum degree of reduction" in violation of the Florida Administrative Code.

DISPUTED ISSUES OF FACT AND LAW

The City will demonstrate to the DEP that the applicant's proposed BACT limits (or absence thereof) for the turbines, fuel oil heater, tanks, and cooling towers, accepted by the DEP, are not consistent with the definition of BACT in Rule 62-210.200(38), F.A.C. and the requirements in Rule 62-212.400(6), F.A.C. as specifically set forth below. BACT is a national standard that does not recognize state lines. The DEP's BACT determinations do not recognize the much lower limits currently being permitted in other states, nor do they address the social and environmental impacts to the City for failing to appropriately limit emissions from the facility.

The Draft Permit establishes BACT for NO_x from the gas turbines as 9 ppmvd at 15% O₂ on gas, achieved with dry low NO_x combustors and 36 ppmvd at 15% O₂ on fuel oil, achieved with water injection. Continuous compliance would be demonstrated based on a 24-hour block average. (Permit, § III.15.) Other states, including New York and California, have permitted a large number of simple cycle peaking power plants with NO_x limits of 2 to 5 ppmvd at 15% O₂ on gas using SCR and 5.9 to 13 ppmvd on oil, achieved with water injection and SCR. Continuous compliance is demonstrated based on 1-hour to 3-hour rolling averages. These lower limits have been demonstrated and achieved in practice and must be included as the top technology in a formal top-down BACT analysis. A much lower NO_x limit should be established for the turbines,

consistent with formal BACT determinations and permitting history in other states and pursuant to Rule 62.212.400(2)(f), F.A.C. and Florida's delegation agreement with the EPA. The DEP's failure to require compliance to the above standards, violates Rule 62-212.400(2)(f), F.A.C.

The Draft Permit establishes BACT for CO for the gas turbines as 9 ppmvd @ 15% O₂ on gas and 20 ppmvd @ 15% O₂ on oil, achieved with good combustion.

Compliance would be demonstrated based on a 3-hour source test. (Permit, § III.16.)

Other states, including California, have permitted simple cycle peaking power plants with CO limits of 2 to 6 ppmvd at 15% O₂ on oil and gas, achieved using an oxidation catalyst. Much lower limits have been demonstrated in source tests and with continuous emission monitors. As a result, a much lower CO limit should be established for the turbines and continuous compliance should be demonstrated with a continuous emission monitor.

The Draft Permit indicates that the facility includes one (1) two and one half (2.5) million gallon distillate storage tank, one (1) 0.6 million gallon distillate storage tank, one (1) 13 MMBtu/hr gas-fired fuel heater, and four (4) wet mechanical draft cooling towers. (Permit, § III.2.) The Draft Permit contains no BACT determinations, emission limits, or monitoring requirements for these sources, even though they emit criteria and hazardous air pollutants. These sources, although individually minor, must use BACT and be regulated by permit, pursuant to Rule 62-210.200(112), F.A.C., which defines a facility as "all of the emissions units which are located on one or more contiguous or adjacent properties, and which are under the control of the same person (or persons under common control)." As a result, the DEP should conduct a formal BACT analysis for these minor

sources and revise the Permit to include appropriate emission limits and monitoring requirements. Failure to do so violates Rule 62-210.200(112), F.A.C.

The Draft Permit and files do not identify any other emission sources at the facility. However, power plants should additionally include an emergency firewater pump and emergency generator, run by diesel internal combustion engines and lube oil vents. The health risks of diesel exhaust from any such engines are a great concern to the City. Thus, the City requests that the DEP investigate whether emergency diesel engines would be used and if so, that these be subjected to a formal BACT analysis and permit limits, pursuant to Rule 62-210.200(112), F.A.C.

The project proposes to use distillate oil as a backup fuel for an average of one thousand (1,000) hours per installed unit. (Permit, § III.10.) The combustion of distillate in the turbines would produce "diesel exhaust," which is recognized by the U.S. Environmental Protection Agency (EPA) and California as a potent human carcinogen and respiratory irritant. The City maintains these emissions should have been considered as a collateral environmental impact in a BACT analysis pursuant to the definition of BACT at F.A.C. 62-210.200(38) and federal guidance.

The definition of BACT in Rule 62-210.200(38) and implementing EPA guidance in the NSR Manual (EPA, New Source Review Workshop Manual, October 1990, Section IV.D.3) require taking into account the "environmental" impacts during the top-down BACT process. The DEP is further required to evaluate the social and economic impacts of its decisions, pursuant to Rule 62-212.400(6)(a)4, F.A.C. The DEP has not considered the impact of its BACT decisions on the City's economic and social impacts nor the collateral environmental impacts of its BACT decisions. Further, based on the

erroneous information concerning the proposed power plant distance to environmentally sensitive lands as discussed in more detail supra, the DEP's decision needs to be reviewed.

The Draft Permit establishes BACT for SO₂ and sulfuric acid mist as the use of pipeline natural gas and low sulfur (0.05%) fuel oil, without performing any analyses, evaluating alternatives, or considering the substantial health impacts that may result from this choice. The City maintains that the use of distillate fuel in a densely populated area is inappropriate, has far-reaching environmental, social and economic implications for its residents, and is not consistent with Rule 62-212.400(6)(a), F.A.C.

Notwithstanding the health issues, 0.05% sulfur distillate is not BACT for SO₂ and sulfuric acid mist when firing oil. A sulfur content of 0.05% is equivalent to 500 parts per million sulfur by weight ("ppmw"). Lower sulfur distillate, containing only 30 ppmw sulfur, is currently available on the east coast of the United States. Further, the EPA has adopted stringent fuel regulations that limit the sulfur content of diesel fuel to 15 ppmw. These regulations go into effect in June 2006 (Federal Register, v. 66, no. 12, January 18, 2001, p. 5002 *et seq*), at which point ultra low sulfur diesel will be widely available in the Florida market.

Thus, the City recommends the permit be modified to eliminate the use of distillate oil. In the short-term, a backup fuel such as Liquefied Natural Gas or propane or a noninterruptible gas supply contract for curtailments should be required, until such time as the capacity constraints on the Florida Gas Transmission Pipeline are alleviated, but no later than January 2003. If distillate is retained, diesel exhaust emissions should

be rigorously controlled and 30 ppmw diesel fuel be required on startup and 15 ppmw diesel when it becomes available, but no later than June 2006.

The permit contains no limits on the number of startups/shutdowns nor on the emissions during these periods. During startups and shutdowns, combustion temperatures and pressures change rapidly, resulting in inefficient combustion and much higher emissions of NOx, CO, and VOCs (including aldehydes) than during steady state operation.

The City is concerned that virtually unlimited and uncontrolled startup and shutdown emissions will result in significant health impacts in Coral Springs, particularly during combined operation of the Pompano and Deerfield Beach Energy Centers. Emissions of formaldehyde, for example, can increase by over a factor of 500 during startups, compared to full load operation. If each turbine experienced as few as 100 startups per year, lasting only 10 minutes, the emissions of formaldehyde would exceed 10 ton/yr and require the use of maximum achievable control technology ("MACT"), pursuant to Rule 62-204.800, F.A.C.

Omitting limits on startup and shutdown emissions is not consistent with requirements of the Clean Air Act. The U.S. EPA has consistently defined startup and shutdown to be part of the normal operation of a source. See Letter from Kathleen M. Bennett attached hereto as composite Exhibit "A." The EPA has also consistently concluded that these emissions should be accounted for in the design and implementation or the operating procedure for the process and control equipment. EPA has concluded that "[w]ithout clear definition and limitations, these automatic exemption provisions [for startups and shutdowns] could effectively shield excess emissions arising from poor

operation and maintenance or design, thus precluding attainment." Accordingly, these emissions should have been considered in the BACT analysis and the related health impacts addressed in conjunction with the environmental review required pursuant to Rule 62-210.200(38), F.A.C. Permits issued by other states include limits on startup and shutdown emissions. Thus, the City recommends that a permit condition be included that specifically limits the number, duration, and emissions during startups and shutdowns, to comply with BACT and MACT.

The limits in the permit must be practically enforceable to qualify as legitimate restrictions on emissions. Practical enforceability means the source and/or enforcement authority must be able to show continual compliance (or noncompliance) with each limitation or requirement. See, U.S. v. Louisiana-Pacific Corp. 682 F.Supp. 1122, Civil Action No. 86-A-1880 (D. Colorado, March 22, 1988). The PM/PM10 limits are not practically enforceable because the Permit contains inadequate monitoring requirements (PM/PM10).

The Permit does not require continuous compliance with the PM10 emission limits. Condition III.27.d requires a single source test for PM/PM10. No subsequent source tests for PM10 are required. Instead, annual visible emission tests and CO and fuel specification would be used as surrogates. This is inconsistent with federal case law, which requires each individual limit to be federally enforceable. Further, there is no demonstrated relationship between PM/PM10 and visible emissions, CO, and fuel specifications.

One source test is not adequate to assure continuous compliance because PM10 emissions are highly variable and emissions on initial testing represent "new and clean"

conditions. Turbine performance degrades and emissions increase over time. Thus, the Permit should be revised to require annual PM10 source test.

Finally, regulations governing air permits at F.A.C. 62-210.300(4)(d) require that each facility located within the borders of Broward County must comply with the requirements of Broward County. The Deerfield Beach Energy Center does not comply with Broward County requirements.

The applicant has not prepared an acceptable pollution prevention plan ("PPP"), as required by Broward County Code ("BCC") Section 27-178. The PPP should achieve a reduction in the generation of regulated air pollutants. The emissions of all regulated pollutants from the Deerfield Beach Energy Center exceed the criteria established in this Code Section, requiring the preparation of a PPP. The PPP should lay out a plan to implement "reasonably available technically and economically feasible alternatives" to the proposed levels of emissions. BCC Sec. 27-178(2) and (3)©.

The PPP submitted by the applicant (PSD Permit Application, Appx. G) does not propose any reduction in the generation of regulated air pollutants and is thus inconsistent with this Code Section. The applicant could implement reasonably available technically and economically feasible alternatives, consistent with BCC Section 27-178 that would significantly reduce emissions of regulated pollutants. These would include the use of ultra low sulfur diesel, the elimination of diesel, and the use of selective catalytic reduction to reduce NOx and an oxidation catalysts to reduce CO, VOCs and toxic organic compounds.

WHEREFORE, Petitioner CITY, respectfully requests a formal administrative evidence hearing, de novo, pursuant to Chapter 120, Florida Statutes, to resolve disputed

issues of material fact and law and that the DEP should not issue Permit No. 0112534-001-AC (PSD-FL-314) or, in the alternative, should amend the Permit to comply with BACT requirements and should prohibit diesel oil from being used at this Facility

Respectfully submitted this 27th day of June, 2001.

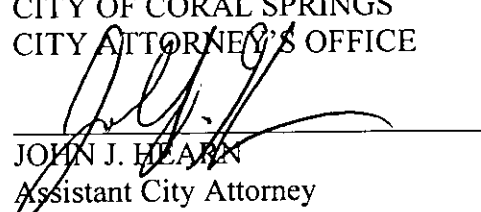

SAMUEL S. GOREN
City Attorney

JOHN J. HEARN
Assistant City Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by facsimile and regular U.S. Mail to: the State of Florida Department of Environmental Protection, Marjory Stoneman Douglas Building, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399-3000 and via U.S. mail to Debbie Orshefsky, Attorney for Deerfield Beach Energy L.L.C., Greenberg, Traurig, 515 E. Las Olas Boulevard, Suite 1500, Fort Lauderdale, Florida 33301 this 27th day of June, 2001.

CITY OF CORAL SPRINGS
CITY ATTORNEY'S OFFICE


JOHN J. HEARN
Assistant City Attorney
Florida Bar No. 825832
City of Coral Springs
9551 West Sample Road
Coral Springs, Florida 33065
(954) 344-1011
(954) 344-5930 (facsimile)

doc. #58466



Enron North America Corp.

P.O. Box 1188

Houston, TX 77251-1188

June 29, 2001

RECEIVED

JUL 02 2001

BUREAU OF AIR REGULATION

Mr. Al Linero, P.E.
Administrator, New Source Review Section
Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

RE: DEP File No. 0112534-001-AC (PSD-FL-314)
Deerfield Beach Energy Center, Broward County
Publication of Notice of Intent to Issue Air Construction Permit

Dear Mr. Linero:

The Public Notice of Intent to Issue Air Construction Permit for the Deerfield Beach Energy Center was published on June 20, 2001 in the Fort Lauderdale Sun-Sentinel. Attached is the original affidavit of publication and tear sheet for the publication.

If you have any questions, please contact me at (713) 853-3161.

Sincerely,
Enron North America

A handwritten signature in black ink, reading "David A. Kellermeyer".

David A. Kellermeyer
Director

Attachment

cc: Steve Krinsky
Ben Jacoby
D. Ballmaith
G. Mack, Broward Co.
EPA
NPS

SUN-SENTINEL

Published Daily

Fort Lauderdale, Broward County, Florida
Boca Raton, Palm Beach County, Florida

STATE OF FLORIDA

COUNTY OF BROWARD/PALM BEACH

Before the undersigned authority personally appeared [Signature]
who on oath says that he is President
of the Sun-Sentinel, daily newspaper published
in Broward/Palm Beach County, Florida, that the attached copy of advertisement,
being, a Notice of Intent to Issue Air Construction Permit
in the matter of Deerfield Beach Energy Center, L.L.C.

in the County of Broward Court
was published in said newspaper in the issues of June 28, 2001

Affiant further says that the said Sun-Sentinel is a newspaper published in
said Broward/Palm Beach County, Florida, and that the said newspaper has
heretofore been continuously published in said Broward/Palm Beach County,
Florida, each day, and have been entered as second class matter at the post
office in Fort Lauderdale, in said Broward County, Florida, for a period of
one year next preceding the first publication of the attached copy of
advertisement, and affiant says that he has neither paid nor promised any
person, firm or corporation any discount, rebate, commission or refund for
the purpose of securing, this advertisement for publication in said newspaper.

Sworn to and subscribed before me this 20th day of June, 2001

(Signature of Notary Public)

Barbara Strickland
Commission # CC 944074

(Name of Notary typed, printed or stamped)

Personally Known [Signature] or Produced [Signature]

PUBLIC NOTICE OF INTENT TO ISSUE AIR CONSTRUCTION PERMIT

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

DEP File No. 0112534-001-AC (PSD-FL-314)

Deerfield Beach Energy Center
Broward County

The Department of Environmental Protection (Department) gives notice of its intent to issue an air construction permit under the requirements for the Prevention of Significant Deterioration (PSD) of Air Quality to Deerfield Beach Energy, L.L.C. (an affiliate of Enron North America). The permit is to construct three 170-megawatt (MW) dual-fuel combustion turbines with inlet chillers, nine mechanical draft cooling towers, a natural gas heater, a 2.5 million gallon fuel oil storage tank, and a 0.6 million gallon fuel oil day storage tank for the Deerfield Beach Energy Center to be located immediately East of the Turnpike and North of Hilton Road (Northwest 48th Street) in Deerfield Beach, Broward County. A Best Available Control Technology (BACT) determination was required for sulfur dioxide (SO₂), particulate matter (PM₁₀), nitrogen oxides (NO_x), sulfuric acid mist (SAM), and carbon monoxide (CO) pursuant to Rule 62-212.400, F.A.C. The applicant's name and address are Deerfield Beach Energy Center, L.L.C., 1400 Smith Street, Houston, Texas 77002-7631.

The new units will be nominal 170 MW General Electric PG7241FA combustion turbine-electrical generators. The units will operate in simple cycle mode and intermittent duty and will operate primarily on natural gas. The backup fuel will be maximum 0.05 percent sulfur distillate fuel oil. The facility will be permitted to operate no more than an average of 1,500 hours per installed unit (10,500 hours spread over three combustion turbines) during any consecutive 12-month period.

Fuel oil firing will be permitted for 1000 hours per installed unit during any consecutive 12-month period. However the total hours of operation will be reduced by two hours for each fuel oil-fired hour in excess of an average of 250 per installed unit. Therefore if the facility uses fuel oil for 1000 hours per unit, total hours of operation (for both fuels combined) will be 2000 hours per unit.

NO_x emissions will be controlled by Dry Low NO_x (DLN-2.0) combustors. The units must meet a continuous emission limit of 9 parts per million by volume, dry at 15 percent oxygen (ppmv @ 15% O₂). NO_x will be controlled to 36 ppmv @ 15% O₂ by wet injection when firing fuel oil. Sulfuric acid mist, SO₂, and PM₁₀ will be limited by use of clean fuels. Emissions of VOC and CO will be controlled by good combustion practices.

The combined maximum emissions from the three combustion turbines in tons per year are summarized below. These include the minor emissions from the fuel oil storage tanks, the gas heater and the cooling towers. These emissions are equal to projected emissions from the previously noticed (Enron) Pompano Beach Energy Center.

Pollutant	Maximum Potential Emissions	PSD Significant Emission Rate
PM ₁₀ /PM _{2.5}	55	25/15
CO	171	100
NO _x	572	40
VOC	18	40
SO ₂	106	40
Sulfuric Acid Mist	25	7

Cumulative maximum predicted air quality impacts due to emissions from the Enron Deerfield and Pompano projects are less than the applicable PSD Class II significant impact levels. The predicted impacts in the Everglades National Park (ENP) are also less than the applicable Class I significant impact levels, with the exception of SO₂. Therefore, multi-source modeling was required for SO₂. The maximum predicted PSD Class I SO₂ increments consumed in the Everglades National Park by all increment consuming sources (since 1975-77) in the area including both Enron projects, will be as follows:

	Increment Consumed All Sources/Enron Projects (ug SO ₂ /m ³)	Allowable Increment All Sources (ug SO ₂ /m ³)	Percent Increment Consumed All Sources/Enron Projects (percent)
Averaging Time			
3-hour	9.6 / 0	25	48 / 0
24-hour	4.0 / 0	5	80 / 2

A refined (CALPUFF) modeling analysis for both the combined Deerfield and Pompano projects was submitted by the applicant to the National Park Service (NPS). To minimize impacts on regional haze in the ENP, Enron will limit fuel oil operation to 50 hours per day spread over the six turbines at the two plants. On the basis of the submittal, NPS advised the Department that it "does not anticipate any adverse impacts on air quality related values at Everglades National Park from the combined emissions from both of these proposed facilities."

Based on the required analyses, the Department has reasonable assurance that the proposed project will not cause or significantly contribute to a violation of any ambient air quality standard or PSD increment.

The Department will issue the FINAL Permit, in accordance with the conditions of the DRAFT Permit, unless a response received in accordance with the following procedures results in a different decision or significant change of terms or conditions.

The Department will accept written comments and requests for a public meeting concerning the proposed permit issuance action for a period of 30 (thirty) days from the date of publication of this Public Notice of Intent to Issue Air Construction Permit. Written comments should be provided to the Department's Bureau of Air Regulation at 2600 Blair Stone Road, Mail Station #5505, Tallahassee, FL 32399-2400. Any written comments filed shall be made available for public inspection. If comments received result in a significant change in the proposed agency action, the Department shall revise the proposed permit and require, if applicable, another Public Notice.

The Department will issue the permit with the attached conditions unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57 F.S., before the deadline for filing a petition. The procedures for petitioning for a hearing are set forth below. Mediation is not available in this proceeding.

A person whose substantial interests are affected by the proposed permitting decision may petition for an administrative proceeding (hearing) under Sections 120.569 and 120.57 of the Florida Statutes. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department at 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida, 32399-3000. Petitions filed by the permit applicant or any of the parties listed below must be filed within fourteen days of receipt of this notice of intent. Petitions filed by any persons other than those entitled to written notice under Section 120.60(3) of the Florida Statutes must be filed within fourteen days of publication of the public notice or within fourteen days of receipt of this notice of intent, whichever occurs first. Under Section 120.60(3), however, any person who asked the Department for notice of agency action may file a petition within fourteen days of receipt of that notice, regardless of the date of publication. A 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 the appropriate time period shall constitute a waiver of that person's right to request an administrative determination (hearing) under Sections 120.569 and 120.57 F.S., or to intervene in this proceeding and participate as a party to it. Any subsequent intervention will be only at the approval of the presiding officer upon the filing of a motion in compliance with Rule 28-106.205 of the 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 and address of each agency affected and each agency's file or identification number, if known; (b) The name, address, and telephone number of the petitioner, the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination; (c) A statement of how and when petitioner received notice of the agency action or proposed action; (d) A statement of all disputed issues of material fact. If there are none, the petition must so indicate; (e) A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action; (f) A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action; and (g) A statement of the relief sought by the petitioner, stating precisely the action the petitioner wishes the agency to take with respect to the agency's proposed action.

A petition that does not dispute the material facts upon which the Department's action is based shall state that no such facts are in dispute and otherwise shall contain the same information as set forth above, as required by Rule 28-106.301.

Because the administrative hearing process is designed to formalize 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 on the application have the right to petition to become a party to the proceeding, in accordance with the requirements set forth above.

A complete project file is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at:

Dept. of Environmental Protection
Bureau of Air Regulation
111 S. Magnolia Drive, Suite 4
Tallahassee, Florida 32301
Phone: 904-488-0114
Fax: 904-922-6979

Dept. of Environmental Protection
Southeast District Office
200 North Congress Avenue
West Palm Beach, Florida 33416
Phone: 561-681-7690
Fax: 561-681-6755

Broward Co. Department of
Planning & Environmental Protection
218 SW 1st Ave.
Fort Lauderdale, Florida 33301
Phone: 954-519-1220
Fax: 954-519-1495

The complete project file includes the application, technical evaluations, Draft Permit, and the information submitted by the responsible official, exclusive of confidential records under Section 403.111, F.S. Interested persons may contact the Administrator, New Resource Review Section at 111 South Magnolia Drive, Suite 4, Tallahassee, Florida 32301, or call 904-488-0114, for additional information. The draft permit, technical evaluation and preliminary BACT determination can be accessed at <http://www.floridadep.com/airquality/permitting/learn/environmental/air/airpermit.html>