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**HAND DELIVER**

**Mr. Douglas Beason, Esquire  
Office of General Counsel  
Florida Department of Environmental Protection  
2600 Blainstone Road  
Tallahassee, Florida 32399-2400**

**RECEIVED**  
OCT 10 1996  
BUREAU OF  
AIR REGULATION

**RE: Florida Power Corporation  
Crystal River Units 1 and 2  
OGC Case No. 96-2045**

**Dear Doug:**

Enclosed is a copy of the Petition for Formal Administrative Hearing that I have filed today on behalf of Florida Power Corporation (FPC). I trust that you will let me know if, from the Department's perspective, it would be beneficial to continue discussing the prospect of a negotiated resolution. Of course, I remain amenable to continuing our dialogue.

Pursuant to our recent telephone communications, FPC will publish the "Notice of Administrative Proceeding on Permit Application," as set forth in Rule 62-103.150(2)(e)2., instead of the "Intent to Deny" notice that DEP originally forwarded to FPC in this matter. FPC's current intention is to "fill in the blanks" in the first paragraph of that Notice as follows:

The Department of Environmental Protection gives notice of the receipt of a petition for and the initiation of an administrative proceeding (hearing) on its Intent to Deny a permit to Florida Power Corporation (FPC), 3201 Thirty-Fourth Street South, St. Petersburg, Florida 33711, Application No. 0170004-003-AC, OGC Case No. 96-2045 to burn a blend of petroleum coke (petcoke) and coal at existing coal-fired Units 1 and 2 at the Crystal River Plant, West of US 19, Crystal River, Citrus County, Florida.

**Mr. Douglas Beason**  
**October 4, 1996**  
**Page Two**

**Because FPC intends to publish notice as soon as possible, the reference (in the second paragraph of the regulatory notice language) to "the assigned hearing officer" will be deleted in its entirety. In the final paragraph to the notice, FPC will refer to the term "intent to deny" and state that the application is available for inspection at: "Florida Department of Environmental Protection, Bureau of Air Regulation, 111 S. Magnolia Drive, Suite 4, Tallahassee, Florida 32301 and Department of Environmental Protection, Southwest District Office, 3804 Coconut Palm Drive, Tampa, Florida 33619."**

**I am requesting the Department's written concurrence that publishing this Notice in this manner is acceptable. So that the Notice can be published as soon as possible, I am requesting confirmation by no later than Wednesday, October 9, 1996.**

**As always, thank you for your courtesy and cooperation.**

**Very truly yours,**

  
**James S. Alves**

**Enclosure**

**cc: Al Linero**

RECEIVED

OCT 4 1996

STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Dept. of Environmental Protection  
Office of General Counsel

Florida Power Corporation )

Petitioner, )

vs. )

DEP OGC Case No. 96-2045

State of Florida, Department  
of Environmental Protection )

Respondent. )

PETITION FOR FORMAL ADMINISTRATIVE HEARING

Petitioner Florida Power Corporation ("FPC"), through undersigned counsel, hereby petitions for a formal administrative hearing in opposition to the Intent to Deny issued by the Department of Environmental Protection ("Department" or "DEP") on June 25, 1996 in response to FPC's application for an air permit authorizing the co-firing of petroleum coke at existing coal-fired Units 1 and 2 at the Crystal River Plant in Citrus County, Florida. This Petition is filed pursuant to Sections 120.569 and 120.57(1) and Chapter 403, Florida Statutes, and Florida Administrative Code Rule 62-103.155. In support of this Petition, FPC states:

Identification of Petitioner

1. The name, address, and telephone number of the Petitioner, the Department file number, and the county in which the project is located are as follows:

Florida Power Corporation  
3201 34th Street, South  
St. Petersburg, Florida 33711  
Attn: W. Jeffrey Pardue, Director  
Environmental Services Department  
813/866-4387  
DEP File No. 0170004-003-AC  
Citrus County

### Notice

2. FPC received the Intent to Deny on June 27, 1996 by U.S. Mail. By Orders dated July 19, 1996 and September 3, 1996, DEP extended the time for filing a formal petition. FPC timely requested an additional extension to October 4, 1996.

### Substantial Interests Affected

3. FPC's substantial interests are affected by the proposed agency action, which would deny FPC's application to co-fire a limited amount of petroleum coke with coal. The denial without good cause impairs FPC's effort to minimize fuel costs and enhance fuel diversity while continuing to meet all applicable air program requirements.

### Statement of Material Facts Disputed by Petitioners

4. The disputed facts on which the Department's proposed action is based (as evidenced in the Intent to Deny and accompanying correspondence) are as follows:

a. In the Intent to Deny, DEP stated that it intends to deny the permit amendment because a Prevention of Significant Deterioration (PSD) permit and associated "very substantial emission reductions" are required on grounds that "the project does not qualify for an exemption [from PSD review] claimed by the applicant pursuant to F.A.C. 62-212.400(2)(c)4 regarding 'use of an alternative fuel (coal and petcoke blend) which the facility was capable of accommodating before January 6, 1975.'"

b. In the cover letter accompanying the Intent to deny, DEP elaborated: "According to information in Department files, both Units 1 and 2 operated on liquid fuel prior to January 6, 1975. Very substantial modifications of the boilers and pollution control equipment were implemented thereafter by Florida Power Corporation to convert the units to coal-firing mode. Therefore, the project does not qualify for the exemption from PSD review claimed by the company."

c. FPC disagrees with and disputes all of the factual assertions contained in, or underlying, DEP's rationale (as set forth in paragraphs a. and b., above) for issuing the Intent to Deny.

Statement of Facts That Warrant Reversal of the  
Department's Proposed Action

5. Material facts warranting reversal of the Department's proposed action include the following:

a. Petroleum coke is a product of the petroleum refining process with characteristics very similar to coal. Co-firing a blend of 5% petroleum coke (plus or minus 2%) with coal at Crystal River Units 1 and 2 will result in compliance with all applicable environmental requirements, while also effectuating fuel cost savings, providing a beneficial use for petroleum coke (which otherwise could be solid waste), and also off-setting the natural resources extraction associated with coal.

b. As of January 6, 1975, FPC's Crystal River Plant (including Unit Nos. 1 and 2) was capable of receiving, transferring, preparing and combusting coal and petroleum coke, and also was capable of disposing of the associated ash. Units 1 and 2 originally were constructed to combust solid fuel, and in fact did combust solid fuel for several years prior to and since 1975. Equipment capable of accommodating coal and petroleum coke was installed prior to January 6, 1975 and has remained in existence since.

c. Although Units 1 and 2 were combusting oil on January 6, 1975, these units and the plant nonetheless were (and still are) "capable of accommodating" coal and petroleum coke, as that term has been applied in Federal and State interpretative determinations. As a result of new DEP regulations and the associated implementation of Florida's State

Implementation Plan (SIP) under the Federal Clean Air Act (42 U.S.C. § 7401 et. seq.), Units 1 and 2 thereafter were required in the 1970's to install upgraded pollution control equipment. Pollution control improvements to Units 1 and 2 were necessary, regardless of whether these units continued to fire oil or converted back to solid fuel. Contrary to DEP's assertions, FPC's implementation of evolving regulatory requirements had no bearing on whether the plant is "capable of accommodating" coal and petroleum coke.

d. DEP's Intent to Deny is devoid of merit: The agency's reliance on boiler modifications (which were minor, not "very substantial") and pollution control improvements is skewed and contextually irrelevant. Crystal River Units 1 and 2 can co-fire petroleum coke as proposed in FPC's application without triggering Prevention of Significant Deterioration requirements.


Statutes and Rules Requiring Reversal  
of the Department's Action

6. The statutes and rules requiring reversal of the Department's action include, at a minimum, Chapters 120 and 403, Florida Statutes, and Section 62-212, Florida Administrative Code.

7. FPC respectfully requests that the Department:

- a. Refer this matter to the Division of Administrative Hearings for a formal hearing pursuant to Section 120.57(1), Florida Statutes;
- b. Withdraw the Intent to Deny;
- c. Grant the permit for which FPC has applied; and
- d. Provide such other relief as may be appropriate.

Respectfully submitted,  
HOPPING GREEN SAMS & SMITH

By: 

James S. Alves

W. Steve Sykes

Post Office Box 6526

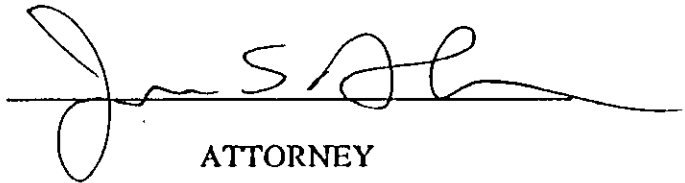
Tallahassee, FL 32314

904/222-7500

Attorneys for Florida Power Corporation

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by hand-delivery to Douglas Beason, Esquire, Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blirstone Road, Tallahassee, Florida 32399-2400, this 4<sup>th</sup> day of October, 1996.

  
ATTORNEY