



Jeb Bush
Governor

Department of Environmental Protection

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

David B. Struhs
Secretary

July 30, 2003

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Ms. Shelly A. Castro
Associate Engineer, Environmental Affairs
Tampa Electric Company
P.O. Box 111
Tampa, FL 33601-0111

Re: Air Construction Permits for Settlement Projects
TEC Big Bend Facility
AIRS ID 0570039

Dear Ms. Castro:

Tampa Electric Company (TEC) will be undertaking construction projects and modifying operating practices at the Big Bend facility pursuant to the requirements of both the Federal Consent Decree and the Consent Final Judgment issued by the State of Florida. Substantial reductions in air pollutant emissions will result from these projects, and to facilitate their completion, the Florida Department of Environmental Protection ("the Department") would like to streamline the air construction permitting process to the extent allowable and practical.

To that end, you and Greg DeAngelo, the Department's engineer, have discussed the numerous items required by the Consent Decree and Consent Final Judgment. The purpose of this letter is to document those discussions and map out a strategy for the projects that will require construction permits. It also serves as notice of Department waiver of the requirement for construction permitting (pursuant to Rule 62-4.040(1)(b) of the Florida Administrative Code) for the specific activities listed below.

Construction Permits Waived.

The Department waives the requirement to obtain air construction permits for the following construction activities. These activities are presumed not to cause the issuance of air contaminants in sufficient quantity so as to contribute significantly to pollution problems within the State. Indeed, emissions of air pollution are expected to decrease following implementation of these construction projects. In addition, these construction projects consist of implementing plans that have already been approved by either the U.S. Environmental Protection Agency (EPA), the Department, or both. Additional scrutiny of the design parameters and other project details through a construction permitting process is therefore not reasonably justified.

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- For sulfur dioxide (SO₂) control, implementation of the scrubber optimization plan pursuant to paragraph 31 of the Federal Consent Decree. The scope of anticipated activities includes increasing spare parts storage, revamping the overtime system, bunkering additional low-sulfur coal, re-coating internal rubber piping, and replacing booster fans internal to the scrubbers.
- For particulate matter (PM) control, implementation of the Best Operating Practices (BOP) for optimizing the performance of the electrostatic precipitators (ESPs) as required by paragraph 32 of the Federal Consent Decree and paragraph V.F of the State Consent Final Judgment. The scope of anticipated activities at the ESPs includes the following:
 - Correcting the internal flow patterns,
 - Increasing transformer rectifier sectionalization,
 - Implementing the “ESPert” computer control system,
 - Replacing wide plate spacing and rigid electrodes,
 - Relocating slag vent lines,
 - Optimizing the rappers,
 - Installing a high level hopper electrical cut-out,
 - Revising the hopper baffles,
 - Enhancing operation and maintenance procedures and training requirements,
 - Replacing analog controls with dedicated digital control units,
 - Adjusting external exhaust flow rates and temperatures,
 - Replacing flyash gate valves, and
 - Upgrading the flyash removal system controls.
- For nitrogen oxides (NO_x) control, implementation of the NO_x reduction plan as required by paragraph 35 of the Federal Consent Decree. The scope of anticipated activities includes refinements to coal and air flow monitoring and regulation of soot blowing through the use of neural network controls.

Construction Permits Required.

At this time, TEC has not formally declared its intent with respect to future operation of each unit at Big Bend. Depending on the choice to continue firing coal, re-power with natural gas, or shutdown, the Federal Consent Decree imposes different requirements. It is clear that the Consent Decree specifies obtaining preconstruction Prevention of Significant Deterioration (PSD) permits prior to re-powering or re-starting a shutdown unit. The Consent Decree also requires that selective catalytic reduction (SCR) be added for NO_x control at any unit which continues firing coal. The Consent Final Judgment similarly requires the addition of “NO_x controls.” The Department clarifies that construction permits are required for installation of SCR for units in which TEC elects to continue firing coal.

The pollution control project exemption of Rule 62-212.400(2)(a)2., F.A.C., excuses the addition of SCR from the requirement to undergo PSD preconstruction review. The Consent Decree also explicitly exempts such projects from PSD preconstruction review, but it also notes that TEC must obtain permits to authorize construction where required by otherwise applicable law.

Although a preconstruction PSD permit is not required, a non-PSD air construction permit is appropriate for the addition of SCR. The construction permit provides the Department with the opportunity to review the project details, and it allows the Department to confirm that the SCR is adequately designed to meet the targeted emissions reductions. This determination is consistent with a recently permitted project for the addition of SCR and a new ESP to Gulf Power's Crist Plant, Unit 7. (Reference Permit No. 0330045-005-AC.)

In addition, the burners are substantial pieces of equipment that directly impact all emissions from the units. Historically, the Department has required air construction permits for the installation of low-NO_x burners (LNB) and supplemental over-fire air (SOFA) projects. Although intended to reduce NO_x emissions, other pollutants (especially carbon monoxide, CO) have the potential to increase following burner change-out. Adding LNB and SOFA is exempt from PSD preconstruction review pursuant to the Federal Consent Decree, but we believe it is appropriate to review and approve the design details of the LNB and SOFA projects through the construction permitting process.

Also, as we have discussed, TEC may wish to obtain construction permits for the existing PM continuous emissions monitoring (CEM) system and for the second PM CEM, should it be installed. Construction permits for the CEM system(s) would not only document the Department's approval of monitor selection and location, but also clarify that the PM CEM system results are not to be directly used for compliance determinations.

Notice of Rights.

A person whose substantial interests are affected by the decision to waive the requirement to obtain air construction permits (as detailed above under the heading "Construction Permits Waived") 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 twenty-one 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 twenty-one days of publication of the public notice or within twenty-one days of receipt of this notice of intent, whichever occurs first. Under Section 120.60(3) of the Florida Statutes, however, any person who asked the Department for notice of agency action may file a petition within twenty-one 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 of the Florida Statutes, 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 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 of the Florida Administrative Code.

Because the administrative hearing process is designed to formulate 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. Mediation is not available in this proceeding.

This permitting decision is final and effective on the date filed with the clerk of the Department unless a petition is filed in accordance with the above paragraphs or unless a request for extension of time in which to file a petition is filed within the time specified for filing a petition pursuant to Rule 62-110.106 of the Florida Administrative Code, and the petition conforms to the content requirements of Rules 28-106.201 and 28-106.301 of the Florida Administrative Code. Upon timely filing of a petition or a request for extension of time, this order will not be effective until further order of the Department.

Appeal Rights.

Any party to this permitting decision (i.e., this order exempting certain activities from the requirement to obtain construction permits) has the right to seek judicial review of it under Section 120.68 of the Florida Statutes, by filing a notice of appeal under Rule 9.110 of the Florida Rules of Appellate Procedure with the clerk of the Department of Environmental Protection in the Office of General Counsel, Mail Station #35, 3900 Commonwealth Boulevard, Tallahassee, Florida, 32399-3000, and by filing a copy of the notice of appeal accompanied by the applicable filing fees with the appropriate District Court of Appeal. The notice must be filed within thirty days after this order is filed with the clerk of the Department.

Further Contact.

If you have any additional questions or concerns, please feel free to contact Greg DeAngelo at (850)921-9506.

Sincerely,



Joseph Kahn, Acting Director
Division of Air Resources
Management

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this PERMIT EXEMPTION was sent by certified mail (*) and copies were mailed by U.S. Mail before the close of business on 7/31/03 to the person(s) listed:

Shelly Castro, TEC (*)
Laura Crouch, TEC
David Lloyd, EPA
Jerry Kissel, FDEP SWD
Jerry Campbell, EPCHC

Clerk Stamp

FILED AND ACKNOWLEDGMENT
FILED, on this date, pursuant to §120.52,
Florida Statutes, with the designated
Department Clerk, receipt of which is
hereby acknowledged.

Victoria Gibson July 31, 2003
(Clerk) (Date)

Florida Department of
Environmental Protection

Memorandum

TO: Joseph Kahn

THRU: Trina Vielhauer
Al Linero *aj*

FROM: Greg DeAngelo *GD*

DATE: July 30, 2003

SUBJECT: Air Construction Permits for Settlement Projects
TEC Big Bend Facility
AIRS ID 0570039

Tampa Electric Company (TEC) will be undertaking construction projects and modifying operating practices at the Big Bend facility pursuant to the requirements of both a Federal Consent Decree and the Consent Final Judgment issued by the State of Florida. Substantial reductions in air pollutant emissions will result from these projects, and to facilitate their completion, DEP would like to streamline the air construction permitting process to the extent allowable and practical.

DEP recommends waiving the requirement to obtain air construction permits for projects involving optimization of existing air pollution control equipment or tweaking of current operating practices. These projects are relatively minor in scope and are already "pre-approved" through inclusion in the Consent Decree itself or through some other review mechanism. For example, the Best Operating Practices study is required to be implemented; the BOP specifies numerous changes to the current ESPs to make them more efficient. The Consent Decree called for the BOP, the BOP was reviewed, and the BOP construction projects have therefore been (implicitly) approved (by EPA).

Major construction projects, such as the addition of low NOx burners (LNB), supplemental overfire air (SOFA), and a selective catalytic reduction (SCR) control device should be permitted. These projects represent significant investment in the facility and have the potential to increase collateral emissions (increase CO while decreasing NOx, for example). In addition, project details have not been approved by DEP or EPA.

Requiring an air construction permit for the addition of a significant pollution control project is consistent with recent air permitting at the Gulf Power Plant Crist; Gulf Power obtained a permit to construct a new SCR and a replacement ESP.

(Note that a **PSD** construction permit is not necessary. Not only are these projects eligible for the "pollution control project exclusion," but they are also explicitly exempted from PSD pre-construction review by the terms of the Consent Decree. The Consent Decree does, however, require that TEC obtain "all other permits, as necessary," which DEP concludes includes construction permits for the LNB, SOFA, and SCR projects.)

I recommend your approval and signature of the attached permit waiver.

Attachments

TLV/AAL/gpd

Joe,
we talked w/ Pat & she also reviewed letter & was comfortable w/ this approach. Greg spoke w/ TECO [Shelley] & they are on Board also.
Trina