

**STATE OF FLORIDA  
SITING BOARD**

<b>IN RE: HILLSBOROUGH COUNTY</b>	)	
<b>RESOURCE RECOVERY FACILITY</b>	)	<b>OGC CASE NO.: 05-2692</b>
<b>EXPANSION POWER PLANT SITING</b>	)	<b>DOAH CASE NO.: 05-4347EPP</b>
<b>APPLICATION NO. PA 83-19A</b>	)	
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**CONSOLIDATED SITING BOARD FINAL ORDER  
ON LAND USE AND SITE CERTIFICATION**

On August 2, 2006, an administrative law judge with the Division of Administrative Hearings ("DOAH") submitted to the State of Florida, Department of Environmental Protection ("DEP"), a Land Use Recommended Order and a Site Certification Recommended Order in this administrative proceeding. These Recommended Orders indicate that copies were served upon counsel for the Applicant, Hillsborough County (the "County"), DEP, and other designated agencies. Copies of the two Recommended Orders are attached hereto as Exhibits A and B. The matter is now before the Governor and Cabinet, sitting as the "Siting Board," for final agency action under the Florida Electrical Power Plant Siting Act ("PPSA") embodied in §§ 403.501-403.518, Florida Statutes.

**BACKGROUND**

The County owns the Hillsborough County Resource Recovery Facility (the "Facility"), an existing electrical power plant that burns municipal solid waste to generate electricity. The Facility is located in an unincorporated area of the County southeast of the City of Tampa, west of Interstate 75 ("I-75"), and north of the Crosstown Expressway and State Road 60. The Facility was built on a 50.4-acre site ("Site") in the southern portion of a 353-acre tract of land owned by the County. The Facility currently consists of three municipal waste combustor

("MWC") units, each having a nominal design capacity of 400 tons per day ("tpd") of municipal solid waste. The three existing MWC units have been in commercial operation since 1987.

The Project involves the construction and operation of a fourth MWC unit at the Facility ("Unit No. 4"). Unit No. 4 will be substantially the same as the three existing MWC units, but larger, and will have the capacity to process 600 tpd (nominal) of municipal solid waste. A new turbine generator will also be installed, which will increase the Facility's net electrical generating capacity by approximately 18 megawatts, thus increasing the Facility's total generating capacity to approximately 47 megawatts. The construction and operation of the Project will occur in disturbed upland areas that are already used for industrial operations, and only about 0.3 acres of open space will be used for a building or similar purpose. The Facility will process more solid waste and generate more electricity after the expansion Project is completed, but the basic operation of the Facility will not change.

#### LAND USE AND SITE CERTIFICATION PROCEEDINGS

DEP transmitted the County's Project application to DOAH for appropriate proceedings under the PPSA. On June 30, 2006, a "Prehearing Stipulation for Land Use and Certification Hearings" ("Prehearing Stipulation") was filed by the County, DEP, the Florida Department of Community Affairs, the Florida Department of Transportation, the Florida Public Service Commission, the Florida Fish and Wildlife Conservation Commission, the Southwest Florida Water Management District, and the Tampa Bay Regional Planning Council. In the Prehearing Stipulation, all of the signatories either agreed with, did not dispute, or took no position concerning the County's assertion that the site of the proposed Project is consistent and in compliance with existing land use plans and zoning ordinances. In addition, all of these signatories either recommended certification of the Project or took no position concerning

certification of the Project, provided the Project is built and operated in compliance with the Conditions of Certification.

In compliance with §§ 403.508(1) and 403.508(3), Florida Statutes, a land use hearing and a site certification hearing were held consecutively in this case before Administrative Law Judge, J. Lawrence Johnston (the "ALJ"), in Tampa on July 12, 2006. At the land use hearing and at the site certification hearing, the County and DEP presented the unopposed testimony of several expert witnesses, and in excess of 50 exhibits were admitted into evidence. The County and DEP were the only signatories to the Prehearing Stipulation who participated at this hearing; and no one from the public testified.

The ALJ entered his Land Use and Site Certification Recommended Orders on August 2, 2006. In the Land Use Recommended Order, the ALJ found that the uncontested evidence presented at the land use hearing demonstrated that the Site and Project are consistent and in compliance with the County's Comprehensive Plan and zoning ordinances. The ALJ also found that the Project is compatible with adjacent and surrounding land uses. The ALJ thus recommended that the Siting Board enter an order determining that "the Site and the proposed expansion of Hillsborough County's resource recovery facility are consistent and in compliance with the existing land use and zoning ordinances."

In his Site Certification Recommended Order, the ALJ concluded that the uncontested evidence presented by the County and DEP at the site certification hearing demonstrated that the Project has met all of the criteria required in order to obtain site certification under the PPSA.

The ALJ also concluded that:

In the PPSA review process and the Conditions of Certification for the Project, the State of Florida has ensured through available and reasonable methods that the location, construction, and operation of the Project will produce minimal adverse effects on human

health, the environment, the ecology of the land and its wildlife, and the ecology of State waters and their aquatic life. . . The Conditions of Certification establish safeguards that are technically sufficient for the protection and welfare of Florida's citizens, and . . . ensure that the potential adverse effects of the Project will be minimized.

The ALJ ultimately recommended that the Siting Board enter a Final Order granting a site certification for construction and operation of Unit No. 4 at the Facility, in accordance with the Conditions of Certification contained in DEP Exhibit 2.

#### CONCLUSION

The record in this proceeding does not contain any land use objections to the proposed Project by any governmental agencies or members of the general public or any requests from any agency or person that site certification of the Project be denied. Moreover, no Exceptions were filed by any party to this administrative proceeding objecting to any factual findings, legal conclusions, or recommendations of the ALJ in the two Recommended Orders now on review before the Siting Board.

Having reviewed the matters of record and being otherwise duly advised, the Siting Board concludes that, if constructed and operated in accordance with the evidence presented at the land use and site certification hearings and the Conditions of Certification, the Project will serve and protect the broad interests of the public and should be approved.

It is therefore ORDERED:

A. The two Recommended Orders attached hereto as Exhibits A and B are adopted in their entireties and incorporated by reference herein.

B. The site of the proposed Project, if constructed and operated in accordance with the evidence presented at the land use and site certification hearings and the Conditions of

Certification, is determined to be consistent and in compliance with existing land use plans and zoning ordinances of Hillsborough County.

C. Site Certification of Unit No. 4 at the Facility, as described in the County's Power Plant Site Certification Application and the evidence presented at the land use and site certification hearings, is hereby APPROVED, subject to the Conditions of Certification in DEP Exhibit 2 incorporated by reference herein.

D. Authority to assure and enforce compliance by Hillsborough County and its agents with all the Conditions of Certification imposed by this Final Order is hereby delegated to DEP.

DONE AND ORDERED this 19<sup>th</sup> day of September, 2006, in Tallahassee, Florida, pursuant to a vote of the Governor and Cabinet, sitting as the Siting Board, at a duly noticed and constituted Cabinet meeting held on September 19<sup>th</sup>, 2006.

THE GOVERNOR AND CABINET  
SITTING AS THE SITING BOARD

  
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THE HONORABLE JEB BUSH  
GOVERNOR

FILING IS ACKNOWLEDGED ON THIS DATE,  
PURSUANT TO § 120.52 FLORIDA STATUTES,  
WITH THE DESIGNATED DEPARTMENT CLERK,  
RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED

  
\_\_\_\_\_  
CLERK

9/27/06  
DATE

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Consolidated Final Order has been

sent by United States Postal Service to:

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this 27<sup>th</sup> day of September, 2006.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

  
\_\_\_\_\_  
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