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February 27, 1998

**RECEIVED**

FEB 27 1998

**BUREAU OF  
AIR REGULATION**

Clair Fancy, P.E.  
Bureau Chief  
Bureau of Air Regulation  
Department of Environmental  
Protection  
2600 Blair Stone Road  
Mail Station 5505  
Tallahassee, Florida 32399-2400

0990331-007-AC

Re: Osceola Power Limited Partnership  
DEP Permit No. AC50-269980; PSD-FL-197

Dear Mr. Fancy:

This law firm assists Osceola Power Limited Partnership ("Osceola Power") with various environmental law issues affecting the operations of the Osceola cogeneration facility ("Facility") in Palm Beach County, Florida. On behalf of Osceola Power, we hereby request the Department of Environmental Protection ("DEP") to grant an extension of time for the simultaneous operation of the Facility's boilers with the boilers at the adjacent sugar mill. More specifically, Osceola Power wishes to amend Specific Condition 17 of the Facility's DEP permit (DEP Permit No. AC50-269980; PSD-FL-197), in the manner shown below:

FROM:

17. During the first three years of commercial cogeneration facility operation, the existing Boilers Nos. 2, 3, 4, 5, and 6 (Permit Nos. A0 50-269980, 203679, 165813, 203680, 165626, and 165814, respectively), may be retained for standby operation provided their operating permits are valid.

During the period from initial firing through April 1, 1998 both cogeneration boilers can be operated simultaneously with the existing boilers. Only biomass and No. 2 fuel oil may be used in the cogeneration boilers during this period. If more than 570,000 lb/hr steam, (24-hour average) is

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generated in the cogeneration boilers, steam in excess of 570,000 lb/hr (24-hour average) must be sent to the Osceola sugar mill, and the existing boiler's steam production reduced by an equivalent amount. After April 1, 1998, the cogeneration facility's boilers may be operated only when the sugar mill's boilers are shutdown or in the process of immediately shutting down. During operation, the existing sugar mill boilers must meet all requirements in the most recent construction and operation permits for the boilers. The existing sugar mill boilers shall be shutdown and rendered incapable of operation within three (3) years of commercial startup of the cogeneration facility, but no later than January 1, 1999.

TO:

17. ~~During the first three years of commercial cogeneration facility operation,~~ The existing Boilers Nos. 2, 3, 4, 5, and 6 (Permit Nos. A0 50-269980, 203679, 165813, 203680, 165626, and 165814, respectively), may be retained for standby operation provided their operating permits are valid.

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#### Current Status of Operations

On May 14, 1997, Osceola Power filed a petition for relief under Chapter 11 of the Bankruptcy Code in the United States

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Bankruptcy Court for the Southern District of Florida. The Chapter 11 filing was precipitated, in large part, by a dispute between Osceola Power and Florida Power & Light Company ("FPL") in which FPL claims it has no further obligations under certain power purchase agreements. FPL has refused to make capacity payments to Osceola Power, thus causing a shortfall in Osceola Power's monthly cash receipts. On or about September 14, 1997, Osceola Power suspended operations at the Facility and shutdown the Facility's boilers. Osceola Power and other parties entered into a Term Sheet agreement, which was approved by the Bankruptcy Court, authorizing (but not requiring) the operation of the Facility on an interim basis.

As you know, the Florida Department of Environmental Protection issued a permit to Osceola Power for the construction of the Facility, which was expected to replace the boilers used at Osceola Farms' sugar mill. On June 14, 1996, DEP issued a permit amendment that authorized the simultaneous operation of the Facility and the sugar mill's boilers until April 1, 1997, so that Osceola Power might connect, test, and fine tune the interconnected operation of the two facilities. In 1997, this deadline was extended to April 1, 1998 because although Osceola Power had connected and begun testing, it had not had enough time to perfect the combined operation of the two facilities.

It was expected that the 1997-1998 harvesting season would provide Osceola Power with adequate opportunities to complete the fine tuning of the interconnected operations. However, from the date of DEP's permit amendment in 1997 to the present, the cogeneration facility has not been able to complete the interconnection testing with the sugar mill for the reasons described below. The Facility could not conduct interconnected operations with the sugar mill after the end of the harvest season in the Spring of 1997 because the sugar mill was shutdown for routine repairs and maintenance. Due to the legal problems and resulting financial difficulties described above, the Facility shut down in September 1997, before the sugar mill resumed operations at the start of 1997-1998 harvest season. It is currently anticipated that the Facility will not resume operations until the start of the 1998-1999 harvest season, at the earliest.

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Request for a Permit Amendment

Given the limited opportunities to date for interconnected operations, and given the April 1st deadline for the cessation of simultaneous operations, Osceola Power believes it is essential to request an extension of time from DEP for simultaneous operations.

In light of the FPL litigation and the bankruptcy case, Osceola Power cannot predict accurately how long it will take to connect and fine tune the systems that are used during interconnected operations. The legal proceedings create significant uncertainties and problems for Osceola Power. The fine tuning process itself involves additional uncertainties. Given these uncertainties, Osceola Power must maintain flexibility in its planning and operations.

Osceola Power has significant incentives to complete the fine tuning process expeditiously, but Osceola Power does not wish to establish a deadline in the DEP permit that may become unattainable. Osceola Power also does not wish to be placed in a position where it must again return to the Department to request another extension of time. Since Osceola Power has been unable to connect the Facility to the sugar mill at all during the current harvest season, Osceola Power believes its authorization to conduct tests of interconnected operations should be extended to include the next two harvest seasons, if necessary.

Accordingly, for all of the reasons set forth above, Osceola Power respectfully requests DEP to amend the Facility's permit to allow the simultaneous operation of the Facility and Osceola Farms' boilers through April 1, 2000.

Osceola Power also requests the Department to extend the deadline for dismantling the boilers at the sugar mill until April 1, 2001. This extension is necessary to enable Osceola Power to resolve any issues concerning interconnected operations. Obviously, the boilers at Osceola Farms' sugar mill cannot be dismantled until Osceola Power has connected to the sugar mill and established normal, long-term operating conditions.

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Ambient Air Quality Impacts

The air quality impacts associated with the simultaneous operation of the cogeneration facility and the sugar mill were described by KBN in the permit application for the Facility's construction permit. Those impacts are the same as previously described in the permit application. The simultaneous operation of the Facility and sugar mill will not cause or contribute to a violation of any ambient air quality standards or PSD increments. This request for a permit amendment only extends the time when such impacts potentially may occur.

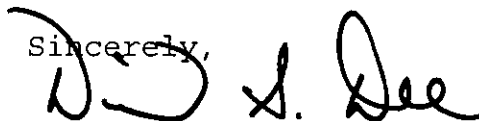
Conclusion

Osceola Power would greatly appreciate DEP's prompt consideration of this request for a permit amendment.

We have enclosed a check (No. 005342) from Osceola Power in the amount of \$250 to pay the DEP fee for a permit amendment.

Please call me at (850) 681-0311 if you have any questions about this request for a permit amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "D. S. Dee". The signature is fluid and cursive, with the first name "D." and last name "Dee" clearly distinguishable.

David S. Dee

cc: David Knowles--DEP Ft. Myers  
James Stormer--HRS PBC  
Willard Hanks--DEP Tallahassee

/OSC88

DRAFT

(DATE)

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. David S. Dee  
Landers & Parsons  
Post Office Box 271  
310 W. College Avenue  
Tallahassee, Florida 32301

Re: Permit Amendment No. \_\_\_\_\_; PSD-FL-197

Dear Mr. Dee:

The Department has reviewed your letter dated February 27, 1998 and Osceola Power Limited Partnership's request that the above-referenced permit be amended to allow additional time for the simultaneous operation of the boilers at Osceola Farm Company's sugar mill and the Osceola cogeneration facility. This request is acceptable and the referenced permit is amended as follows:

SPECIFIC CONDITIONS FOR OSCEOLA POWER LIMITED PARTNERSHIP

FROM:

17. During the first three years of commercial cogeneration facility operation, the existing Boilers Nos. 2, 3, 4, 5, and 6 (Permit Nos. A0 50-269980, 203679, 165813, 203680, 165626, and 165814, respectively), may be retained for standby operation provided their operating permits are valid.

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DRAFT

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A copy of this letter shall be attached to the referenced permit and shall become a condition of that permit.

STATE OF FLORIDA DEPARTMENT  
OF ENVIRONMENTAL PROTECTION

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Howard L. Rhodes, Director  
Division of Air Resources  
Management

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this INTENT TO ISSUE PERMIT AMENDMENT was sent by certified mail(\*) and copies were mailed by U.S. Mail before the close of business on \_\_\_\_\_, 1998 to the person(s) listed:

David S. Dee, Landers and Parsons*	Brian Beals, EPA
David Knowles, SD	John Bunyak, NPS
Isidore Goldman, SED	James Stormer, PBCHD
Silvia Alderman, Katz, Kutter	

Clerk Stamp

**DRAFT**

**FILING AND ACKNOWLEDGEMENT**

**FILED**, on this date, pursuant to  
§120.52(11), Florida Statutes,  
with the designated Department  
Clerk, receipt of which is hereby  
acknowledged.

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Clerk

Date



GATOR GENERATING COMPANY LIMITED PARTNERSHIP  
DEBTOR IN POSSESSION CASE #97-32338  
316 ROYAL POINCIANA PLAZA  
PALM BEACH, FL 33480

First Union National Bank  
of Florida  
Belle Glade, Florida  
24 Hour Information Service  
1-800-735-1012

63-643/670  
00760

005342

Pay: \*\*\*\*\*Two hundred fifty dollars and no cents

DATE CHECK NO. AMOUNT

February 26, 1998 5342 \*\*\*\*\*250.00

*Signature*  
M

FL Dept of Env Protect (FDEP)  
Twin Towers Office Bldg  
2600 Blair Stone Road  
Tallahassee, FL 32399-2400

PAY  
TO THE  
ORDER  
OF

005342 062005432:209000177748