

Memorandum

Florida Department of Environmental Protection

TO: Clair Fancy

THRU: Al Linero *Al Linero*

FROM: Willard Hanks *Willard Hanks*

DATE: March 25, 1998

SUBJECT: Osceola and Okeelanta Power L.P.
Modification of Permits

Attached are proposed letters modifying the construction permits for the referenced facilities. The modifications allow an addition two years of concurrent operation of the sugar mill boilers and cogeneration boilers while connection problems between the associated facilities are being resolved.

I recommend your approval of this proposal.

Attachment

WH/t

*Clair - I didn't put in
lots of details about the facility,
its control equipment, etc.
We have public noticed stuff
so many times, that interested
parties know about the facility.
We will include David Dee's letter
as an attachment.*

Al



Department of Environmental Protection

Arms
events
updated
3/26/98

Lawton Chiles
Governor

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

Virginia B. Wetherell
Secretary

March 25, 1998

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Carlos Rionda
General Manager
Osceola Power Limited Partnership
Post Office Box 606
Pahokee, Florida 33476

Re: DRAFT Permit Modification No. 0990332-007-AC (PSD-FL-197)
Cogeneration Facility

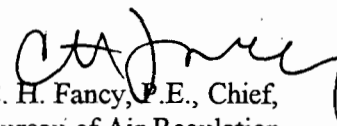
Dear Mr. Williams:

Enclosed is one copy of the Draft Air Construction Permit Modification for the cogeneration facility located near Pahokee in Palm Beach County. The Department's Intent to Issue Air Construction Permit Modification and the "PUBLIC NOTICE OF INTENT TO ISSUE AIR CONSTRUCTION PERMIT MODIFICATION" are also included.

The "PUBLIC NOTICE OF INTENT TO ISSUE AIR CONSTRUCTION PERMIT MODIFICATION" must be published within 30 (thirty) days of receipt of this letter. Proof of publication, i.e., newspaper affidavit, must be provided to the Department's Bureau of Air Regulation office within 7 (seven) days of publication. Failure to publish the notice and provide proof of publication within the allotted time may result in the denial of the permit modification.

Please submit any written comments you wish to have considered concerning the Department's proposed action to A. A. Linero, P.E., Administrator, New Source Review Section at the above letterhead address. If you have any other questions, please contact Mr. Willard Hanks at (850)921-9528.

Sincerely,


C. H. Fancy, P.E., Chief,
Bureau of Air Regulation

CHF/wh/t

Enclosures

In the Matter of an
Application for Permit Modification by:

Osceola Power Limited Partnership
Post Office Box 606
Pahokee, Florida 33476

DRAFT Permit Modification No. 0990331-007-AC
PSD-FL-197

Osceola Cogeneration Facility
Palm Beach County

INTENT TO ISSUE AIR CONSTRUCTION PERMIT MODIFICATION

The Department of Environmental Protection (Department) gives notice of its intent to issue an air construction permit modification (copy of DRAFT Permit Modification attached) for the proposed project, as detailed in the request specified above for the reasons stated below.

The applicant, Osceola Power Limited Partnership, applied on February 27, 1998 to the Department for an air construction permit modification for its cogeneration facility located near Pahokee, Palm Beach County. The request is to allow additional time for the simultaneous operation of the facility's cogeneration boilers and the boilers at the adjacent sugar mill.

The Department has permitting jurisdiction under the provisions of Chapter 403, Florida Statutes (F.S.), and Florida Administrative Code (F.A.C.) Chapters 62-4, 62-210, and 62-212. The above actions are not exempt from permitting procedures. The Department has determined that an air construction permit modification is required to allow additional time for the simultaneous operation of the cogeneration and sugar mill boilers.

The Department intends to issue this air construction permit modification based on the belief that reasonable assurances have been provided to indicate that operation of these emission units will not adversely impact air quality, and the emission units will comply with all appropriate provisions of Chapters 62-4, 62-204, 62-210, 62-212, 62-296, and 62-297, F.A.C.

Pursuant to Section 403.815, F.S., and Rule 62-103.150, F.A.C., you (the applicant) are required to publish at your own expense the enclosed "**PUBLIC NOTICE OF INTENT TO ISSUE AIR CONSTRUCTION PERMIT MODIFICATION**". The notice shall be published one time only within 30 (thirty) days in the legal advertisement section of a newspaper of general circulation in the area affected. For the purpose of these rules, "publication in a newspaper of general circulation in the area affected" means publication in a newspaper meeting the requirements of Sections 50.011 and 50.031, F.S., in the county where the activity is to take place. Where there is more than one newspaper of general circulation in the county, the newspaper used must be one with significant circulation in the area that may be affected by the permit. If you are uncertain that a newspaper meets these requirements, please contact the Department at the address or telephone number listed below. The applicant shall provide proof of publication to the Department's Bureau of Air Regulation, at 2600 Blair Stone Road, Mail Station #5505, Tallahassee, Florida 32399-2400 (Telephone: 850/488-1344; Fax 850/ 922-6979) within 7 (seven) days of publication. Failure to publish the notice and provide proof of publication within the allotted time may result in the denial of the permit modification pursuant to Rule 62-103.150 (6), F.A.C.

The Department will issue the FINAL Permit Modification, in accordance with the conditions of the enclosed DRAFT Permit Modification 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 concerning the proposed DRAFT Permit Modification issuance action for a period of 30 (thirty) days from the date of publication of "**PUBLIC NOTICE OF INTENT TO ISSUE AIR CONSTRUCTION PERMIT MODIFICATION**." Written comments should be provided to the Department's Bureau of Air Regulation, 2600 Blair Stone Road, Mail Station #5505, Tallahassee, Florida 32399-2400. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in this DRAFT Permit Modification, the Department shall issue a Revised DRAFT Permit Modification and require, if applicable, another Public Notice.

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

A person whose substantial interests are affected by the Department's proposed permitting decision may petition for an administrative hearing in accordance with Sections 120.569 and 120.57 F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000, telephone: 850/488-9730, fax: 850/487-4938. Petitions 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. A petitioner must 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 28-5.207 of the Florida Administrative Code.

A petition must contain the following information: (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Permit File Number and the county in which the project is proposed; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of the facts that the petitioner contends warrant reversal or modification of the Department's action or proposed action; (f) A statement identifying the rules or statutes that the petitioner contends require reversal or modification of the Department's action or proposed action; and (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take with respect to the action or proposed action addressed in this notice of intent.

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 of intent. 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.

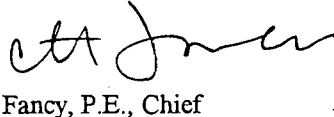
In addition to the above, a person subject to regulation has a right to apply for a variance from or waiver of the requirements of particular rules, on certain conditions, under Section 120.542 F.S. The relief provided by this state statute applies only to state rules, not statutes, and not to any federal regulatory requirements. Applying for a variance or waiver does not substitute or extend the time for filing a petition for an administrative hearing or exercising any other right that a person may have in relation to the action proposed in this notice of intent.

The application for a variance or waiver is made by filing a petition with the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000. The petition must specify the following information: (a) The name, address, and telephone number of the petitioner; (b) The name, address, and telephone number of the attorney or qualified representative of the petitioner, if any; (c) Each rule or portion of a rule from which a variance or waiver is requested; (d) The citation to the statute underlying (implemented by) the rule identified in (c) above; (e) The type of action requested; (f) The specific facts that would justify a variance or waiver for the petitioner; (g) The reason why the variance or waiver would serve the purposes of the underlying statute (implemented by the rule); and (h) A statement whether the variance or waiver is permanent or temporary and, if temporary, a statement of the dates showing the duration of the variance or waiver requested.

The Department will grant a variance or waiver when the petition demonstrates both that the application of the rule would create a substantial hardship or violate principles of fairness, as each of those terms is defined in Section 120.542(2) F.S., and that the purpose of the underlying statute will be or has been achieved by other means by the petitioner.

Persons subject to regulation pursuant to any federally delegated or approved air program should be aware that Florida is specifically not authorized to issue variances or waivers from any requirements of any such federally delegated or approved program. The requirements of the program remain fully enforceable by the Administrator of the EPA and by any person under the Clean Air Act unless and until the Administrator separately approves any variance or waiver in accordance with the procedures of the federal program.

Executed in Tallahassee, Florida.



C. H. Fancy, P.E., Chief
Bureau of Air Regulation

CERTIFICATE OF SERVICE

The undersigned duly designated deputy agency clerk hereby certifies that this INTENT TO ISSUE AIR CONSTRUCTION PERMIT MODIFICATION (including the PUBLIC NOTICE, and DRAFT permit modification) was sent by certified mail (*) and copies were mailed by U.S. Mail before the close of business on 3-26-98 to the person(s) listed:

Mr. Carlos Rionda, Osceola Power L.P. *
Mr. Daniel Thompson, Berger, Davis & Singerman *
Mr. David Dee, Landers & Parsons
Mr. David Knowles, SD
Mr. Jim Stormer, PBCPHU
Mr. Brian Beals, EPA
Mr. John Bunyak, NPS

Clerk Stamp

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

Kym Lober 3-26-98
(Clerk) (Date)

P 265 659 321

US Postal Service

Receipt for Certified Mail

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

PS Form 3800, April 1995

Sent to	Charles Rionda
Street & Number	Cecilia Pover
Post Office, State, & ZIP Code	Pahokee, FL
Postage	\$
Certified Fee	
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, C. le, & Addressee's Address	
TOTAL Postage & Fees	\$
Postmark or Date	3/26/98
0990332-007-AE P50-FI-197	

Is your RETURN ADDRESS completed on the reverse side?

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- ☐ Addressee's Address
- ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Mr. Charles Rionda, Sr. - P.S.
Cecilia Pover, LP
P.O. Box 606
Pahokee, FL 33476

4a. Article Number

P 265 659 321

4b. Service Type

- | | |
|---|---|
| <input type="checkbox"/> Registered | <input checked="" type="checkbox"/> Certified |
| <input type="checkbox"/> Express Mail | <input type="checkbox"/> Insured |
| <input type="checkbox"/> Return Receipt for Merchandise | <input type="checkbox"/> COD |

7. Date of Delivery

3-30-98

5. Received By: (Print Name)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature: (Addressee or Agent)

Howard Hill Jr.

PS Form 3811, December 1994

Domestic Return Receipt

Thank you for using Return Receipt Service.

NOTICE TO BE PUBLISHED IN THE NEWSPAPER

PUBLIC NOTICE OF INTENT TO ISSUE AIR CONSTRUCTION PERMIT MODIFICATION

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

DRAFT Permit Modification No. 0990331-007-AC, PSD-FL-197
Osceola Power Limited Partnership
Palm Beach County

The Department of Environmental Protection (Department) gives notice of its intent to issue an air construction permit modification to Osceola Power Limited Partnership for the cogeneration plant located near Pahokee, Palm Beach County. A Best Available Control Technology (BACT) determination was not required for this modification pursuant to Rule 62-212.400, F.A.C. and 40 CFR 52.21, Prevention of Significant Deterioration (PSD). The modification will not result in an increase in allowable emissions from the cogeneration facility, and will not cause a violation of any state or federal ambient air quality standards or increments. The applicant's name and address are: Osceola Power Limited Partnership, P. O. Box 606, Pahokee, FL 33476.

The modification will allow an additional two years for concurrent operation of the Osceola Farms' existing boilers and the new cogeneration boilers while problems with the interconnections between the two plants are being resolved.

The Department will issue the FINAL Permit Modification, in accordance with the conditions of the DRAFT Permit Modification 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 concerning the proposed DRAFT Permit Modification issuance action for a period of 30 (thirty) days from the date of publication of this Notice. Any written comments should be provided to the Department's Bureau of Air Regulation, 2600 Blair Stone Road, Mail Station #5505, Tallahassee, Florida 32399-2400. Any written comments filed shall be made available for public inspection. If written comments received result in a significant change in this DRAFT Permit Modification, the Department shall issue a Revised DRAFT Permit Modification and require, if applicable, another Public Notice.

The Department will issue FINAL Permit Modification with the conditions of the DRAFT Permit Modification unless a timely petition for an administrative hearing is filed pursuant to Sections 120.569 and 120.57 F.S. The procedures for petitioning for a hearing are set forth below. Mediation is not available for this action.

A person whose substantial interests are affected by this permit amendment may petition for an administrative hearing in accordance with Sections 120.569 and 120.57 F.S. The petition must contain the information set forth below and must be filed (received) in the Office of General Counsel of the Department, 3900 Commonwealth Boulevard, Mail Station #35, Tallahassee, Florida 32399-3000, telephone: 850/488-9730, fax: 850/487-4938. Petitions must be filed within fourteen days of receipt of this permit amendment. A petitioner must 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 28-5.207 of the Florida Administrative Code. Mediation is not available for this action.

A petition must contain the following information: (a) The name, address, and telephone number of each petitioner, the applicant's name and address, the Permit File Number and the county in which the project is proposed; (b) A statement of how and when each petitioner received notice of the Department's action or proposed action; (c) A statement of how each petitioner's substantial interests are affected by the Department's action or proposed action; (d) A statement of the material facts disputed by petitioner, if any; (e) A statement of the facts that the petitioner contends warrant reversal or modification of the Department's action or proposed action; (f) A

NOTICE TO BE PUBLISHED IN THE NEWSPAPER

statement identifying the rules or statutes that the petitioner contends require reversal or modification of the Department's action or proposed action; and (g) A statement of the relief sought by the petitioner, stating precisely the action that the petitioner wants the Department to take with respect to the action or proposed action.

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 permit amendment. 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:

Department of Environmental Protection
Bureau of Air Regulation
111 S. Magnolia Drive, Suite 4
Tallahassee, Florida 32301
Telephone: 904/488-1344

Division of Environmental Science
and Engineering
Palm Beach County Health Unit
901 Evernia Street
West Palm Beach, Florida 33401
Telephone: 561/355-3070

Department of Environmental Protection
South Florida District
2295 Victoria Avenue, Suite 364
Fort Myers, Florida 33901
Telephone: 813/332-6975

Department of Environmental Protection
Southeast District
400 N. Congress Avenue
Reception 2nd Floor
West Palm Beach, Florida 33416
Telephone: 561/681-6600

The complete project file includes the Draft Permit Modification, the request, 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 904/488-1344, for additional information.

DRAFT

April xx, 1998

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Carlos Rionda, General Manager
Osceola Power Limited Partnership
Post Office Box 606
Pahokee, Florida 33476

Re: Permit Modification No. 0990331-007-AC
PSD-FL-197

Dear Mr. Rionda:

The Department has reviewed Mr. David Dee's February 27 letter requesting a modification to the referenced permit. The requested modification is to allow additional time for the simultaneous operation of Osceola Farms' existing sugar mill boilers and your new cogeneration boilers. The effected facilities are located near Pahokee, Palm Beach County, Florida. This request is acceptable, with conditions, and Specific Conditions Nos. 17, and 25 of the referenced permit are modified as follows:

MODIFIED SPECIFIC CONDITIONS FOR OSCEOLA POWER L. P. PERMIT

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 until the cogeneration facility is a reliable source of steam provided their operating permits are valid.

During the period from initial firing through April 1, ~~1998~~ 2000 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 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 boilers' steam production reduced by an equivalent amount. After April 1, ~~1998~~ 2000, 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,~~ when the cogeneration facility is a reliable source of steam but no later than ~~January 1, 1999~~ April 1, 2001.

25. Stack monitoring, fuel usage, ~~and~~ fuel analysis data, and the status of the bagasse connection between the sugar mill and the cogeneration facility shall be reported to the Department's South and Southeast

Mr. Carlos Rionda
Page Two
Osceola Power, LP

DRAFT

District Offices and to the Palm Beach County Health Unit on a quarterly basis commencing with the start of commercial operation in accordance with 40 CFR, Part 60, Sections 60.7 and 60.49a, and in accordance with Section 17-297.500, F.A.C.

A copy of this letter shall be filed with the referenced permit and shall become part of the permit. This permit modification is issued pursuant to Chapter 403, Florida Statutes. Any party to this order (permit modification) has the right to seek judicial review of the permit pursuant to Section 120.68, F.S., by the filing of a Notice of Appeal pursuant to Rule 9.110, Florida Rules of Appellate Procedure, with the Clerk of the Department in the Legal Office; 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 of Appeal must be filed within 30 (thirty) days from the date this Notice is filed with the Clerk of the Department.

Sincerely,

Howard L. Rhodes, Director
Division of Air Resources
Management

Enclosure: Landers & Parsons February 27, 1998 letter.

HLR/wh

LANDERS & PARSONS, P.A.
ATTORNEYS AT LAW

CINDY L. BARTIN
DAVID S. DEE
JOSEPH W. LANDERS, JR.
JOHN T. LAVIA, III
FRED A. MCCORMACK
PHILIP S. PARSONS
ROBERT SCHEFFEL WRIGHT

HOWELL L. FERGUSON
OF COUNSEL

VICTORIA J. TSCHINKEL
SENIOR CONSULTANT
(NOT A MEMBER OF THE FLORIDA BAR)

310 WEST COLLEGE AVENUE
POST OFFICE BOX 271
TALLAHASSEE, FLORIDA 32302
TELEPHONE (850) 681-0311
TELECOPY (850) 224-5595
www.landersondparsons.com

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

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

Clair Fancy
Page Two
February 27, 1998

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, t~~ 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, 2000, 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 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 boilers' steam production reduced by an equivalent amount. After April 1, 2000, 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 April 1, 2001.

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

Clair Fancy
Page Three
February 27, 1998

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.

Clair Fancy
Page Four
February 27, 1998

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.

Clair Fancy
Page Five
February 27, 1998

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,


David S. Dee

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

/OSC88

007
Date: 6/1/98 4:33:57 PM
From: Jeffrey E. Brown TAL
Subject: Osceola & Okeelanta - 5-17-24
To: Willard Hanks TAL
To: Alvaro Linero TAL

David Dee's client requests one minor change to revise your proposed language: the insertion of the adjectives "commercially and operationally" to precede the adjective "reliable." Would that be OK?

Has the public comment period expired?

Okeelanta 98 folder

- ① Howard 2 - transmit memo for Okeelanta & Osceola
- ② Okeelanta - transmit letter for Okeelanta
- ③ Findel 1 - FD for Okeelanta
- Okeelanta - letter amendment

Osceola 007 folder

- ① Okeelanta
- ② Findel 1
- ③ Okeelanta

6-3-98

Need to go to Spaw Creek
before going alone to Kani