


Hopping Green & Sams

Attorneys and Counselors

MEMORANDUM

TO: Trina Vielhauer
FROM: Robert Manning 
RE: Progress Energy Florida; Hines Power Block 3
MACT Applicability Timeline
DATE: June 1, 2004

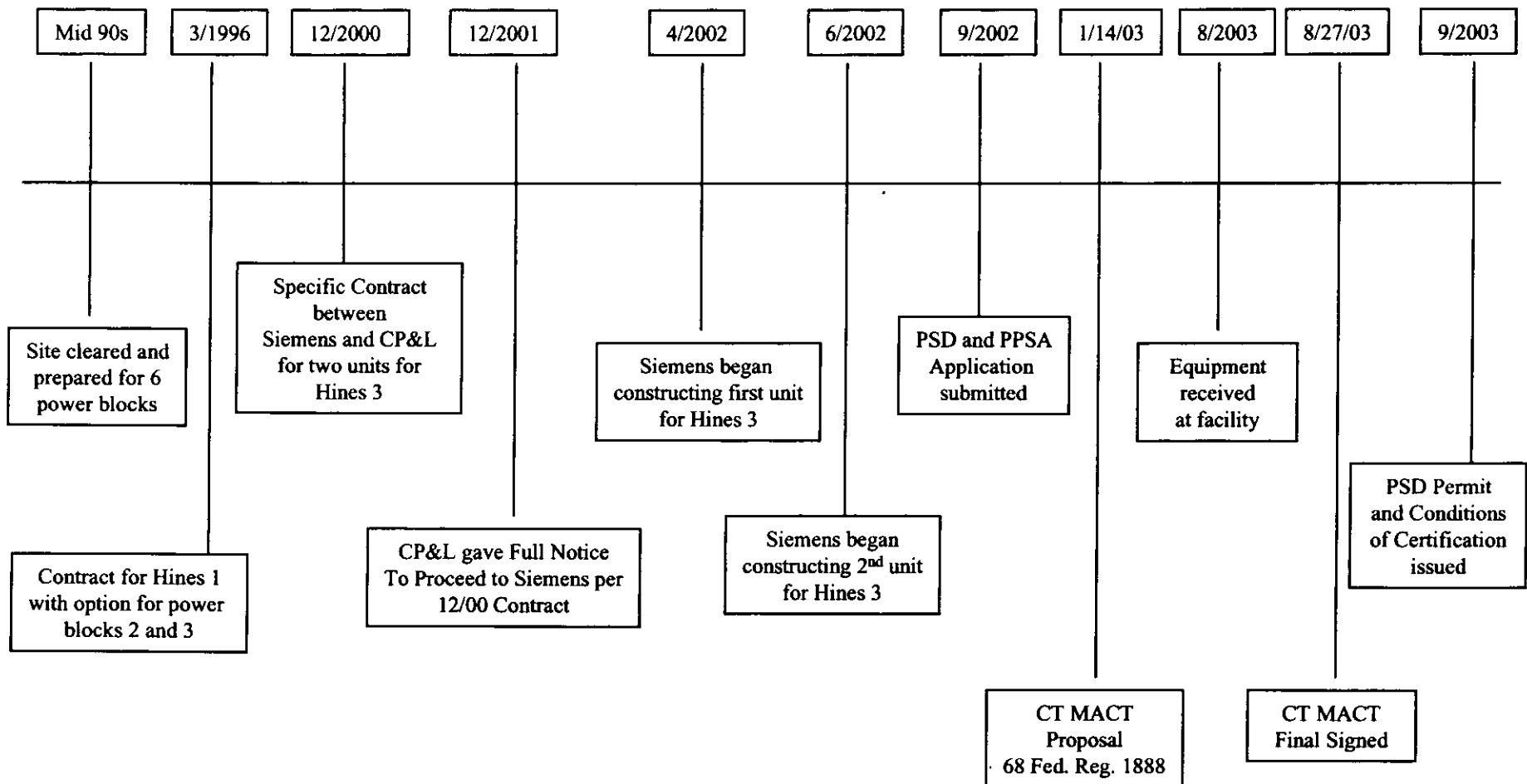
As I mentioned last week, attached are three documents that will hopefully be helpful in preparing for this Friday's meeting to discuss CT MACT applicability at Hines 3:

- (1) A timeline showing relevant dates;
- (2) A letter from Florida Power & Light (FP&L) to EPA regarding applicability; and
- (3) A letter from EPA to FP&L confirming that sufficient contractual obligations were in place to avoid applicability.

We will bring additional relevant contract documents to Friday's meeting. Thank you and we look forward to seeing you on Friday. If you have any questions in the meantime, please give me a call.

HINES POWER BLOCK 3 TIMELINE

DRAFT 5/24/04





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

1421 PEACHTREE ST., N. E.
ATLANTA, GEORGIA 30309

January 26, 1976

Mr. W. J. Barrow, Jr.
Florida Power and Light Company
Post Office Box 013100
Miami, Florida 33101

Re: Florida Power and Light Company
Willow Creek Site of Manatee County Station

Dear Mr. Barrow:

This is in response to your letter dated January 20, 1976, requesting a determination as to whether Florida Power and Light's Manatee County Station qualifies as an "existing source" under Title 40 of the Code of Federal Regulations (CFR), Part 60, Subpart D.

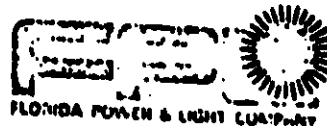
The information you submitted on January 21, 1976, and the information attached to your letter of January 20, 1976, evidence binding contracts for the purchase of equipment (Boiler Unit #1 and Boiler Unit #2) prior to the effective date of EPA's Regulations on Standards of Performance for New Stationary Sources. Based on this information, it is our opinion that the Manatee County Station is not a "new source" within the meaning of gll (a) (2) of the Clean Air Act Amendments of 1970, and is therefore exempt from the federal requirements imposed under 40 CFR 60.

This exemption is limited to the above described and in no way relieves Florida Power and Light from compliance with other federal, state or local pollution abatement requirements.

Sincerely,


Frances E. Phillips
Regional Counsel

cc: Mr. Jay Landers
Dr. J. P. Subramani



January 20, 1976

Mr. G. T. Helms, Jr., PE
Deputy Director,
Air and Hazardous Material Division
U. S. Environmental Protection Agency
Region IV
1421 Peachtree Street, N.E.
Atlanta, Georgia 30309

Dear Mr. Helms:

The intent of this letter is to have a ruling on the status of FPL's Manatee Plant according to the Environmental Protection Agency's Regulations on Standards of Performance for New Stationary Sources. It is FPL's position that this plant qualifies as an existing source under these regulations which became effective on August 17, 1971. We quote the following:

Title 40 Subpart A - General Provisions

§60.1 Applicability

Except as provided in Subparts B and C, the provisions of this part apply to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of any standard (or, if earlier, the date of publication of any proposed standard) applicable to that facility.

§60.2 Definitions

(1) "Commenced" means with respect to the definition of "new source" in section 111(a)(2) of the Act, that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification. (Emphasis applied)

January 20, 1976

It is FP&L's contention that the Manatee Plant correlates with the EPA's definition of an existing plant, since "contractual obligations to undertake and complete a continuous program of construction" were entered into prior to August 17, 1971 for this particular plant. These "contractual obligations" are documented by the following, copies of which are attached:

- 1) April 11, 1969 - FPL letter to Westinghouse Electric Corporation ordering two turbine generators.
- 2) April 21, 1970 - Foster Wheeler Corporation letter confirming FPL verbal order for one boiler April 13, 1970, and setting forth proposal detail including an option on No. 2 boiler.
- 3) Sept. 1, 1970 - FPL letter to Mid-Valley, Inc. retaining this company as the engineering and construction firm. Authority given to proceed with engineering.
- 4) March 26, 1971 - FPL letter to Foster Wheeler Corporation exercising option to purchase No. 2 boiler.

To put these four correspondences in the proper framework, it is important to understand FP&L's basic procedure for the construction of a fossil fuel plant. First the two most important components, the turbine generator and the boiler, are selected and purchased. Once these purchases have been made then an architectural engineering firm is contracted to engineer and construct the plant according to the specifications of the turbine generator and boilers. Because of the magnitude of these initial choices, the company is committed to a program of construction.

Mr. G. T. Helms

-3-

January 20, 1976

If we can supply any additional information, please let us know.

Very truly yours,



W. J. Barrow, Sr.
Senior Project Coordinator

WJB:jr:CCC:sa

Enclosures